





CONTENTS OF VOLUME THE FIRST.

FRANCE.

Page

| | |
|---|----|
| Historical Summary of the Government of France, from the establishment of the Monarchy to the Revolution of 1789, | 1 |
| § 1. Government of Roman Gaul, | 2 |
| § 2. Of the Franks before the conquest, | 5 |
| § 3. Conquest of Gaul by the Franks, | 6 |
| § 4. Of the Regal Power, | 9 |
| § 5. The Salic Laws | 12 |
| § 6. Servitude, | 14 |
| § 7. Vassalage, | 16 |
| § 8. Fiefs, | 18 |
| § 9. Justice, | 23 |
| § 10. The Clergy, | 26 |
| § 11. National Assemblies, | 27 |
| § 12. Of the Mayors, | 29 |
| § 13. Charles Martel, | 30 |
| § 14. Pepin-le-Bref, | 31 |
| § 15. Charlemagne, | 33 |
| § 16. Capitularies, | 36 |
| § 17. Charles the Bold, | 37 |
| § 18. Hugh Capet, | 38 |
| § 19. Feudal Government, | 40 |
| § 20. The Church, | 42 |
| § 21. Communes, | 43 |
| § 22. Philip Augustus, | 45 |
| § 23. Peers, | 46 |
| § 24. St. Louis, | 50 |
| § 25. Philip the Fair, | 51 |
| § 26. The Parliament, | 52 |
| § 27. The States-General, | 54 |

| | <i>Page</i> |
|--|-------------|
| Constitutive Laws of the United Provinces | 457 |
| Act of Union of the United Provinces, concluded at Utrecht, the 23d of January, 1579 | <i>ib.</i> |
| Constitution of the United Provinces | 465 |
| Revolution of 1795 | 478 |
| Declaration of the Rights of Man and of a Citizen | <i>ib.</i> |
| Establishment of the Batavian Republic | 484 |
| Constitution of 1801 | 486 |
| Constitution of 1801 modified. The executive power vested in a grand pensionary. Establishment of the kingdom of Hol- land under Louis Bonaparte | 510 |
| Treaty between the Batavian Republic and the Emperor of the French, for establishing the kingdom of Holland, May 24, 1806 | 513 |
| Proclamation of Louis Bonaparte, made in Holland, June 9, 1806 | 516 |
| Constitutional Laws | 518 |
| Establishment of the kingdom of the Netherlands | 522 |
| Report presented to the King by the Commission charged with revising the Fundamental Law of the United Netherlands | <i>ib.</i> |
| Fundamental Law of the kingdom of the Netherlands | 541 |



FRANCE.

HISTORICAL SUMMARY OF THE GOVERNMENT OF FRANCE, FROM THE ESTABLISHMENT OF THE MONARCHY TO THE REVOLUTION OF 1789.

WHAT we chiefly have in view in the following pages is, to collect the principal points in that part of our national history which, although the most important, has the least occupied the attention of our historians. Without entering into useless and fatiguing discussions, which would only tend to interrupt the series of circumstances we mean to describe, it will be our object to present the reader, in as concise and clear a form as possible, with the various changes which have occurred in the political state of the monarchy, from the period of its establishment to that of the revolution which overthrew it. A work of this kind cannot fail to be interesting. It will serve to correct the misrepresentations of prejudice, by throwing a new light on the principles and truths it has so constantly perverted. It will present our history in a point of view, more elevated and more worthy the people who are the subject of it. Above all, it will have this great and desirable end, so justly described as the most essential in our present circumstances, “ of binding the recollections of the past to the hopes of the future, by re-

“ storing the chain of past and present times* ;” and thus, perhaps, of lessening the distance which intervenes between generations, of sentiments so opposite.

§ 1. *Government of Roman Gaul.*

We shall commence this summary by considering, on the one hand, the situation of Gaul under the Roman government ; and, on the other, the state of federation which existed among the German nations, known under the name of Franks, before their conquest of the Gallic territory. The government of France arose from the blending together the laws and institutions of these two political societies, just as the mixture of the two races formed the French nation ; and hence, in investigating the origin of the early establishments of our monarchy, and the materials of its constitution, we are bound to consider the laws and institutions peculiar to each people. A few concise and appropriate observations on this subject, will do much towards clearing up the confusion in which the early history of our country is involved.

It is not here our design to follow the Gauls through the course of that gradual metamorphosis, which the Romans wrought upon them after having conquered their territory ; but merely to view them as they appeared at the period of the second conquest, effected by the German tribes, that is, in the fifth century. The Abbé Dubos† has asserted, that there were then no longer Gauls in Gaul ; in other words, that they had become complete Romans. They had adopted the manners, customs, games, costume, and language of their vanquishers—in fact, every thing. From the moment that Caracalla proclaimed all the inhabitants of the provinces Roman citizens, the differences which time had yet left subsisting, gradually disappeared ; above all, the intermarriages of the two nations tended to produce a complete mixture. No distinction any longer subsisted between the

* Preamble to the Charter. † Establishment of the Franks in the Gauls.

families which had originally introduced the toga into Gaul and those which had adopted it; the most illustrious of both classes attained indiscriminately to the dignities of the empire. It was necessary to determine this point, that the terms *Gaul* and *Roman* may henceforth lead to no confusion. At this period, then, we are understood to speak of one and the same people.

The great magistracies established in the Gauls by the emperors, are no farther interesting to our subject, than, inasmuch as the barbarian chiefs availed themselves of these vain titles to support their authority over those whom they had conquered. Neither must we form our estimate of regal power in that remote age, according to modern ideas. The only sceptres in the eyes of the people, then known, were those of Rome and Constantinople. The *vicar-general*, or *prefect*, who commanded in Gaul, nay even the *rector*, who governed one of the seventeen provinces, appeared to the people a very different personage from the barbarian prince, whose long hair formed the sole trait of majesty. All the feeble instruments of imperial power successively disappeared before the sword of the invaders; but these soon felt that, to govern firmly what yet survived, it was necessary to place themselves in the offices to which the people had contracted habits of submission *. Hence, while the chiefs received, or took, the insignia of patricians or consuls, their principal lieutenants were seen replacing, under the name of *dukes*, those generals (*duces*) established

* The policy of the emperors seconded that which is here attributed to the barbarian chiefs. They sought to conciliate those whom they were unable to conquer. Clovis, firmly settled in the Gauls, and rendered yet more potent by his success over the other barbarous nations which had established themselves before him, received in the year 508 an embassy from Anastasius, who then occupied the throne of Constantine. He was honoured by the titles of patrician and consul, and decorated with the insignia of those high dignities. Assuming the appellation of Augustus, we find, from some medals or gold coins of Childebert and Theodebert, that it was even borne by his successors.

by the emperors in the provinces; others succeeding as *counts* to those *comites*, who presided over the *cities*, &c.

And here occurs a very important observation on the military establishments of the emperors. The difficulty of marching troops to the frontiers, sometimes simultaneously attacked by the barbarians, had given rise to the creation of a peculiar kind of military, permanently fixed in a particular province, and expressly charged with defending its boundaries. Lands were distributed to these soldiers; they were permitted to marry, and to bequeath their possessions to their children; but on condition that these discharged the same military service, of which the grant had been the recompense. Lands possessed by this title are generally denominated military benefices. We may here perceive the origin of fiefs.

Each province of Gaul was divided into districts or cities. Each city regulated its own affairs, under the high authority of the emperor's officers. It had its senate, *curia**, troops, and revenues. These cities, in fact, resembled, but in a higher and more liberal degree, those *communes* which we shall see at first disappearing amidst the evils which followed the conquest, and afterwards reviving, as successively wrested from the sword of the conquerors, by the efforts of the people, and the protecting sceptre of kings. The Gauls were freemen, or slaves. The freemen were ranged under three classes: *first*, the senatorial families, which enjoyed certain prerogatives, but, like the rest of the community, were subject to taxation; *secondly*, the curial families, in which were placed all those who possessed landed property, who exercised no business, and who had a right to form part of the *curia*; *thirdly*, families which supported themselves by their industry, and were connected together by corporations of crafts.

Slaves were of two kinds; one, attached to a master who

* The *curia*, it would appear, was to the canton (*pagus*) what the senate was to the city (*civitas*).

maintained them ; the other, to the lands which they tilled, and of which they enjoyed the produce, subject to a certain rent *. There were also freemen, who held and cultivated lands by the same title.

§ 2. *Of the Franks before the Conquest.*

The state of the Franks in Germany, compared with that of the people we have just described, affords a striking contrast. On the one hand, are seen all the results of advanced civilization ; on the other, nature in all her pristine rudeness. Here reign laws, institutions, and the arts, with loss of freedom ; there, a few confused usages, ferocious manners, and arms, with liberty.

The Franks were Germans†. The traits of character by which the ancients have described these last, ought then to

* The distinctions in the rank of slaves were various ; but the most general were those of the *adsriptitii* and the *coloni*. Both were attached to the soil, but the lot of the former was the most severe. The portion of produce, which they were obliged to pay, was regulated at the will of the master ; and their children followed the condition of the mother. The *coloni*, that is, such of them as were slaves, for there were freemen of the same name, enjoyed a few privileges ; their children followed the condition of the father, and the returns they owed, were fixed ; they could, besides, have recourse to the laws, when oppressed. For more on this subject, see *L'Etat Civil des Personnes, &c. dans les Gaules*. lib. 2, c. 5.

† The Franks, a people of Germany, are mentioned, for the first time, in history, in the reign of Valerian, when Aurelian (afterwards emperor) gained a victory over them. The Bructeri, the Catti, the Chamavi, Ansivarii, and several other nations, inhabiting that extensive tract of country lying between the ocean, the rivers Elbe, Maine, and Lower Rhine, were comprised under the general name of Franks. In the reign of Theodosius, the country on the German bank of the Rhine, from Cologne to Nimeguen, was called by its inhabitants, France. Some historians date the foundation of the French monarchy, from the year 421, when Pharamond began his reign over this last mentioned district. The seat of his government, as well as that of his successors, Clodion, Meroveus, and Childeric, according to Father Daniel, lay on the German side of the Rhine ; though the discovery of the tomb and skeleton of Childeric, father of Clovis, at Tournay, added to other circumstances, seems to warrant some writers in supposing, that the Franks, before the final invasion of Gaul by Clovis, had already established it on this side that river.

guide us in describing the Franks themselves. We comprehend, under this denomination, several petty states, united to each other by the tradition of a common origin, and continually experiencing the necessity of joining their strength, both for attack and defence. Beyond this, there does not appear to have prevailed among them any kind of federal compact, formally expressed; but the custom of holding annual assemblies, in which the nation deliberated on affairs of general concern, was one which, doubtless, mounted up to the union of the first families. These were the famous assemblies which form the first point in the history of our liberties; and it is a circumstance remarkable enough, that the two principal materials which compose the ground-work of our national edifice, are discovered, one, the communes, in the institutions of the Romans, the other, representative bodies, in the German establishments.

Among the Franks, valour was the principal thing held in estimation; and the punishment of cowardice, among the chief ends of law. When engaged in hostilities, they followed chieftains, whose most important prerogative consisted in their being entitled to a larger share of the booty taken from the enemy. Their youth were taught the dexterous use of the battle-axe, and to arts of this kind was their education limited. A society thus constituted, in which strength and violence were all-predominant, could subsist only so long as its most turbulent members were engaged in war; and hence, from the time they appeared on the northern frontiers of the empire, to their invasion of Gaul, every year was marked by new aggressions, and fresh acts of rapine.

§ 3. *Conquest of Gaul by the Franks.*

On this subject it behoves us to guard against the spirit of system, and consequently to avoid imitating most of the

writers who have made the political situation of the country at the conquest, an object of their research. Almost all, indeed, strangely perverting the sense of a few passages, have established hypotheses, of a more or less specious cast, but in which we find only a few truths in the midst of assertions manifestly erroneous. According to one author, for example, the conquerors sat down peaceably in the ranks of the vanquished, and saluted with respect all their establishments*. Another, on the contrary, maintain that the barbarians loaded with fetters all who bore the name of Gaul†. The most illustrious of all, even one of those great geniuses who have adorned France, may be justly charged with having too exclusively sought the origin of every thing, in the very forests of Germany‡.

Let us avoid considering this part of our history in a systematic light, and borrow from each hypothesis only what is well founded. By this means, perhaps, we shall draw near the truth, even on points which, no wise cleared up by the long discussions employed on them, have yet remained obscure.

And here it is important to observe that authors, in treating of the period when the Franks triumphed over the Roman power, do not appear to have sufficiently weighed the alterations which these people had undergone during the century previous to this event. We must recollect that they had frequently possessed, during several years at a time, some stripes of the northern provinces; that their continual irruptions into other parts of the country had brought them into direct communication with the Romans; that the captives, whom they led away slaves, must necessarily have spread among them some knowledge of the political state of Gaul; so that we cannot wholly regard them, at this period, as barbarians bent on exterminating,

* L'Abbé Dubos. † Le Comte de Boulainvilliers.

‡ Montesquieu.

indiscriminately and utterly, all who had not sprung from the same savage cradle with themselves.

The laws which prevailed at this early period prove that, wherever submission was made, property, and even local institutions, were respected. The barbarians seized those lands only, which they found free by the death or slavery of the proprietors * ; and, at first, made no other alterations in the government, than such as were necessary to secure their conquest. If the vanquished, from motives of policy, were placed in the second rank, we see, notwithstanding, that those who coalesced with the conquerors, preserved a great preponderance in the management of affairs: of this, the reign of Ægidius, after the expulsion of Childeric, is a proof. Since the Franks were capable of submitting to a Roman, it is evident that the condition of the rest of the nation could not have been so bad as some authors have supposed it. Besides, it was a principle prevalent among the barbarians, that each nation ought to be governed by its own rules of justice. This opinion preserved the use of the Roman law to the Romans, as it established the Salic law for the Franks, and the Gombet law among the Burgundians. What was then called the Theodosian code yet flourished in Gaul. Now this supposes that the magistracies were still filled by Romans, since they alone were capable of discharging their functions. Several records in little manner seem to prove that the administration re-

* The Burgundians and Visigoths, who had settled in Gaul before the Franks, "took two thirds of their respective conquests, leaving the remainder to the Roman proprietor. Each Burgundian was quartered under the gentle name of Guest, upon one of the former tenants, whose reluctant hospitality confined him to the smaller portion of his estate." *Leg. Burgun.* c. 55, 55. "The Vándals in Africa, a more furious race of conquerors, seized all the best lands." *PROCOPIUS de Bello Vandal.* l. 1. c. 5. "The Lombards of Italy took a third part of the produce. We cannot discover any mention of a similar arrangement in the laws or history of the Franks. It is, however, clear, that they occupied, by public allotment or individual pillage, a great portion of the lands of France." *HALLAM.* c. 11. part 1.

mained nearly in its former state, and that the persons chosen by the Frank kings to preside over the cities as *comites*, or *counts*, were generally Romans.

In fine, the idea, which we may reasonably form on the state of the country after the conquest, seems to be this: The king of the Franks formed his council of the principal Frank chiefs, and such of the illustrious Gauls as had without difficulty submitted their necks to the yoke. He deliberated with them on the means of completing his conquest, and of extending his dominion, as well over the districts yet held by Roman corps, as over those where other barbarian chiefs were endeavouring to establish a rival power.

The most considerable Frank chiefs were invested with the great commands in the provinces which acknowledged the king's authority. The Germans, who had settled in these provinces after quitting the banks of the Rhine, were not at first dispersed, but, united to their serfs, formed separate villages on the lands which had been ceded to them. Difference in religion, in worship and usages, united to sentiments of jealousy on the one part, and cupidity on the other, could not but establish a natural division between the ancient cities, which conquest had spared, and the new settlements. The two populations observed each other with inquietude, and the relations which existed between them were too immediate, not necessarily to produce a sort of almost continual struggle, in which the advantage it may be readily conceived, seldom fell to the lot of the less powerful.

Such, with little variation, was the situation of the country down to the time when the ancient inhabitants, in the series of wars and devastations which form the history of the age, seem in some degree, to have totally disappeared.

§ 4. *Of the Regal Power.*

“*Reges ex nobilitate, duces ex virtute sumunt,*” says Tacitus, speaking of the Germans; which evidently proves

that their kings belonged exclusively to certain families. But was the crown hereditary ?

Respect and submission towards the family of a man distinguished for his valour, are sentiments which spring with political society, and from which it deduces, in the sequel, principles sometimes essential to its preservation. Had we room for such inquiries, it would not be difficult to show the source and motives of these sentiments; but history moreover can attest the fact. It is not unusual to see in all nations, and particularly in those under consideration, an assembly of old warriors excited to a degree of enthusiasm at the sight of a feeble infant; regarding it with delight, as one day destined to recall him from whom it received life, and of whom it bears the name.

On the other hand, we cannot imagine a servile and unreasonable attachment to exist among nations where the sword is all powerful, where the bravest must ever be the first. Who can doubt but that in those annual assemblies in which the nation decided every thing with supreme authority, it was sometimes made the business of discussion to dethrone an imbecile or tyrannical king, to make room for a chief more worthy of sovereign sway. Is not Childeric an instance of this* ?

The apparent contradiction arising here may be thus reconciled. The people had certainly the right of electing their kings; but it was a prevailing principle to limit the exercise of this right, and to confine their choice to the heirs of the blood royal exclusively. Various authorities afford good grounds for this opinion. We read in our an-

* The Ostrogoths of Italy afford another example to this purpose. At the time Justinian, emperor of the East, undertook the recovery of Italy, Theodotus was king of that nation. But betraying abilities of too mean a rank, his subjects came to a resolution to depose him. In an assembly of the nation, he was declared incapable of governing it in the perilous circumstances of the moment. Vitiges, a chief distinguished for his valour, was elevated to the throne, and Theodotus soon after fell a victim to his jealousy.—DANIEL, *Hist. Fr.*

cient historians, that the kings who preceded Clovis, and whose names alone are known, most certainly belonged to the same family, although the principle of direct hereditary descent was not applied to them. This custom, perhaps, introduced the partition of kingdoms, so frequently practised under the first race. The king's sons, in the opinion of the people, had an equal right to a share of the kingdom, since they could be equally chosen by them to govern the whole of it.

The person destined to reign over the Franks, holding a sword in his hand, was elevated on a shield; and the whole army which was present at the ceremony, performed various evolutions around him*. Such was the coronation. It indicates a throne whence women were naturally excluded: so that whether this constitutive principle of our monarchy be joined or not to the body of salic laws, it is not the less certain that it must have originated in the very genius of those warlike people. Clovis, by the *éclat* which he threw on his arms, gave to royalty a more imposing character, and accustomed the people to see it irrecoverably fixed in his family, and more regularly transmitted. But it was chiefly Christianity which impressed on it the peculiar zeal of a religious contract between nations and the blood of kings. The bishops, in acknowledgment for the benefits heaped upon them by monarchs, as a means of atoning for their crimes, attached the name of God to their crown, and bade their authority flow from a divine source. Miracles confirmed these new doctrines, and kings became sacred beings. Hence the holy vial† and the cure of the king's evil. Hence those kings *fainéans*, who, at an earlier period, would have been chased from a throne they were so little worthy to occupy.

* *Greg. Tur.*, lib. vii. c. 18.

† *La sainte ampoule*, said to have been brought from heaven by a dove for the coronation of Clovis.

§ 5. *The Salic Laws.*

It is an opinion very generally received, that the laws of the Franks were written shortly after their settlement in Gaul. But it is probable that the entire compilation of the Frank code does not date from the same period, and that it was produced by successive additions, to meet the wants of the new state.

The situation of the country after its conquest, the rivalry and contention which must necessarily have arisen between the two principal bodies of the population, obliged the crown to establish some rules for fixing the new relations. Policy, as we have seen, had left a sort of equality between the ancient inhabitants and those who had but recently occupied the soil. The civil law, on the contrary, establishes an humiliating difference. Thus, in introducing the *composition*, an institution wholly Germanic, and which, in fact, necessarily belonged to societies of warriors, with whom blood was less esteemed than gold, the law ordained that the person who killed a Frank should pay two hundred sous to his relations; while the person, who had made away with a Roman, should pay but one hundred sous,—and forty-five only was the Roman tributary. Ordinances of this kind must have tended to banish the Gaul or Roman name from the territory governed by the Franks; while, in a similar way, and step by step, they put a period to the use of the Roman law, at first maintained by the kings. We can easily imagine a change of this kind, while so many advantages attended the being considered a Frank, and being subject to the Frank laws; and every one was at liberty, nay, obliged, to make choice of the law under which he professed to live. One would willingly acknowledge some share of sagacity in laws thus calculated to operate a useful mixture of the two nations, had they not accelerated the progress of barbarism. The proofs by single combat,

by hot iron, *the judgment of God*, are among the institutions sanctioned by the Frank code. In a future page we shall return to this subject. For the present, let us pass to that famous article become, one of the fundamental laws of our monarchy, and which more than once has prevented its falling under a foreign sceptre.

“ De terrâ vero salicâ in mulierem nulla portio hæreditatis transit, sed hoc virilis sexus acquirit; hoc est, filii in ipsâ hereditate succedunt*. No portion of the salic land shall pass to the females, but it shall belong to the males: that is, the male children shall succeed their father.” This is the sense in which Montesquieu interprets the law†.

* *Lex. Sal.*, tit. 62. § 6.

† “ *De terrâ vero salicâ.* ” As to the meaning of the term *terra salica* or *salic land*, endless disputes have arisen, and the question is still involved in no little obscurity. One author understands by it the landed possessions of the nobles. Another has endeavoured to prove that the salic land was originally that small portion which lay round the dwelling of each individual, while yet inhabiting the forests of Germany.

According to MABLY, the terms *allodial*, *proper*, and *salic*, lands were synonymous. He distinguishes two sorts of allodial, the *ancient* and *acquired*; of which the former was the real *salic land*, the latter, that which the actual possessor had himself acquired. *Observ. sur l'Hist. de France*, l. 2. c. 5, note 7. Another writer, after confirming the opinion of Mably, continues, “ Were it permitted me to annex my own opinion to that of an author so enlightened, I should say that the term *salic land*, especially characterized the allodial domains which belonged to the Franks; and that those of the Gauls, Burgundians, and others, were called *proper* or *allodial*,” and he strengthens his conjecture by the circumstance, that when the feudal government had confounded all previous distinctions, the term *salic* ceased to be in use, while those of *allodial* and *proper* still prevailed. *De l'Etat Civil des Personnes*, &c., dans les Gaules, lib. 1. c. xi. Mr. HALLAM's authority also concurs with that of Mably. “ No solution,” he observes, “ seems more probable, than that the ancient lawgivers of the salian Franks prohibited females from inheriting the lands assigned to the nation upon its conquest of Gaul, both in compliance with their ancient usages, and in order to secure the military service of every proprietor. But lands, subsequently acquired by purchase or other means, though equally bound to the public defence, were relieved from the severity of this rule, and presumed not to belong to the class of salic. Hence in the ripuary law, the code of a tribe of Franks settled upon the banks of the Rhine, and differing rather in words than in substance

After certain developements on the application of this article in civil matters, the same author continues, “ After what has been said, one would not imagine that the perpetual succession of the males to the crown of France, should have taken its rise from the salic law. And yet this is a point indubitably certain. I prove it from the several codes of the barbarous nations. The salic law *, and the law of the Burgundians† refused the daughters the right of succeeding to the, and in conjunction with their brothers; neither did they succeed to the crown. The law of the Visigoths‡, on the contrary, permitted the daughters to inherit the land with the brothers; and the women were capable of inheriting the crown. Amongst these people, the regulations of the civil law had an effect on the political§.”

§ VI. *Servitude.*

There existed, unhappily for the age we are treating of, an usage which prevailed in an equal degree among the conquerors and the conquered—the *service of the glebe*. In both nations men were attached to landed property, as things necessary to its cultivation. This state of things arose in Gaul, from the Romans, unwilling to quit their residence in the towns, having devised it as the best means of securing the revenues of their land; and, in Germany, because the barbarians, disdaining to join the management of implements of husbandry with that of arms, had exclusively devoted their captives to tillage, and in some degree identified their existence with the portion of land assigned to their care||.

“ from the salic law, which it serves to illustrate, it is said, that a woman cannot inherit her grandfather's estate (*hereditas aviatica*,) distinguishing such family property from what the father might have acquired. And Marculfus uses expressions to the same effect.” HALLAM, chap. 2. part 1.

* Tit. 62. † Tit. 1 § 3. ‡ Tit. 14, § 1. and tit. 51.

§ *Spirit of Laws*. lib. xiv. chap. 22.

|| TACITUS describes the serfs of the Germans, and in what they differed from those of the Romans. “ The slaves, in general, are not arranged at

Some writers have maintained that the Franks, when they settled in Gaul, reduced all the vanquished to a state of servitude. They no doubt considerably increased the number of serfs, but it does not follow that the conquered people were wholly reduced to this condition. Numerous facts, on the contrary, falsify the assertion, while all the laws of the period prove it to be a manifest error. What gave rise to it, was the circumstance that about the commencement of the third race, the artisans, almost all the inhabitants of towns, were serfs; but Montesquieu has shown whence it happened, that the number of free men,

“ their several employments in the household affairs, as is the practice at Rome. Each has his separate habitation, and his own establishment to manage. The master considers him as an agrarian dependant, who is obliged to furnish a certain quantity of grain, of cattle, or of wearing apparel.” *De Mor. Germ.* xxv.

At first the Romans had few slaves, and those generally devoted to domestic duties. But in the course of time, the practice of reducing prisoners taken in war to slavery, increased the number to such a degree, that it was no uncommon thing for a man to possess several thousands at a time.

From the practice of servitude, thus common to the conquerors and the conquered, there came to be two descriptions of slaves established in Gaul, after the invasion of the Franks. The various distinctions which had prevailed among Roman serfs, were soon lost in the common term of *coloni* or *tributary*. The German slaves were termed *inferiores servi*. The Roman laws on servitude continued in force under the two first races of Frank kings; but only among the Romans, ecclesiastics, tenants of monasteries, and such others as professed to follow them. These laws rendered the condition of the Roman very superior to that of the German serf. The former could not be torn from the soil he cultivated, or sold separate from it. So particular was the law on this point, that when a part of an estate was sold, a due proportion only of the serfs could be sold with it. The share of produce assigned the lord, also, was fixed and permanent. The Frank serf, on the contrary, was at the absolute disposal of his master.

This distinction is recognised by the salic law. The composition for a *colonus*, or tributary, is fixed at 45 sols—that of a mere slave at 20 sols. *Leg. Salic.* tit. 44. art. 7. apud *D. Bouq.* tom. 4. p. 147. It is also evident from a sentence of Charles the Bald, A.D. 861, against the men of the abbey of St. Denis at Mintry, who pretended to be *coloni*, and were declared *inferiores servi*, (*DUBOIS, Hist. de l'Eglise de Paris.* tom. 1. p. 491.) in *l'Etat Civil des Personnes*.

still considerable under the first race, afterwards diminished to such a degree, that in the tenth century the whole population of France was made up of nobility and slaves. “ What was not effected by the conquest, was effected by the same law of nations, that subsisted after the conquest. Opposition, revolts, and the taking of towns, were followed with the servitude of the inhabitants. And, not to mention the wars which the different conquering nations made against one another, as there was this particularity among the Franks, that the different divisions of the monarchy gave rise continually to civil wars, between brothers or nephews, in which this law of nations was constantly practised ; servitudes, of course, became more general in France, than in other countries*.”

It was the progress of *villainage*, we conceive, which gradually destroyed the vestiges of the ancient municipal institutions of the Romans, at first respected. It contributed in like manner, to cover the whole of France with the clouds of ignorance and barbarism. The Romans alone preserved any remains of the light which had shed such splendour on this unfortunate country, before the invasion of the barbarians ; and we may easily imagine that, in the series of predatory wars and calamities which ensued, those were Roman hands that were chiefly loaded with the fetters of servitude.

§ VII. *Vassalage*.

The principal men among the Germans, say the ancients, had each a small band of followers, alike in war and in peace attached to their fortunes. “ Their dignity and power,” says Tacitus, “ consist in being constantly surrounded with a multitude of young and chosen people : this they reckon an ornament in peace, a defence and support in war. Their name becomes famous at home,

* *Spirit of Laws*. lib. xxx. cap. 11.

“ and among neighbouring nations, when they excel all
 “ others in the number and courage of their companions *,
 “ they receive presents and embassies from all parts. Re-
 “ putation frequently decides the fate of war. In battle it
 “ is infamy in the prince to be surpassed in courage ; it
 “ is infamy in the companions not to follow the brave ex-
 “ ample of their prince ; it is an eternal disgrace to sur-
 “ vive him. To defend him, is their most sacred engage-
 “ ment. If a city be at peace, the princes go to those
 “ which are at war ; and it is by this means they retain a
 “ great number of friends. To these, they give the war-
 “ horse, and the terrible javelin. Their pay consists in
 “ coarse, but large repasts. The prince supports his libe-
 “ rality merely by war and plunder. You might easier
 “ persuade them to challenge the enemy, and expose them-
 “ selves to wounds, than to cultivate the land and attend
 “ the cares of husbandry ; they refuse to acquire by sweat,
 “ what they can purchase with blood †.” This passage
 contains the origin of feudal vassalage. There were as yet
 no fiefs, but there were, as Montesquieu says, “ trusty men
 “ who were bound by their word, who were engaged to
 “ follow the prince to the field, and performed very near
 “ the same service, as was afterwards performed for the
 “ fiefs ‡.”

In the early ages of the monarchy, we see only the king's
 vassals, who appear under the name of *Leudes*, *Antrus-*
tions, *Fidèles* §, words which have the same signification.

* Comites. † TACITUS, *de Mor. Ger.* ‡ Montesquieu, lib. xxx. cap. 4.

§ The word *antrustion* is peculiar to French history. It is derived from the German word *treue*, truth or trust, and designates such men as the king had taken under his special faith and guardianship, *in truste regis*. Marculfus has preserved the formula of the act by which they were admitted to this dignity. They were also termed *convivæ regis*, because antrustionage conferred the right of sitting at table with the prince. The composition for their murder was equal to that of a count, 600 sols. The title was not hereditary ; the son of an *antrustion*, unless he received a charter

But degrees of vassalage were afterwards introduced, in the same manner as degrees in fiefs; so that the king had his Leudes, the Leudes their vassals, and these again their inferior vassals. These are the roots of that feudal tree, of which the branches for so long a period overspread the face of European society.

§ 8. *Fiefs.*

We treat here of the origin only of that famous institution of fiefs, which forms the distinctive character in the political legislation of the moderns.

The Count de Buat* having collected different passages from our old laws relating to the frontier lands of the empire, commonly granted to veterans, thence draws the following conclusions:—1st. That these possessions were not hereditary; 2d. That they were masculine; 3d. That they were benefices under certain relations; 4th. That the son of the last possessor was chosen to be invested in preference to strangers, provided he was capable of discharging the duties which such possession imposed; 5th. That the serfs and cattle, with which they were stocked, were obliged to be forthcoming when the property passed to a new possessor. “From all these marks,” he adds, “we ought, I think, to distinguish fiefs, such as they continued down to the time of Charles the Bald.” This system has been disputed by the gravest authorities, though it appears to contain nothing improbable.

similar to that of his father, having nothing to distinguish him from the class of ordinary citizens.

The terms Leudes, Antrustions, Fideles, were not, strictly speaking synonymous. The first more properly belonged to such persons as had received the investiture of a fief; Antrustions were those received under the king's special protection; whereas the term Fidèles was sometimes extended to all who had taken an oath of fidelity to the king. For more on this subject see *L'Etat Civil des Personnes*, &c.

* *Les Origines*, &c., tom. 1. lib. iv. cap. 1.

It is necessary to observe, that, as the barbarians in alliance with the Empire were sometimes commissioned by princes to guard the frontiers against the invasion of other barbarians, this institution was sometimes made in their favour; that lands were also granted, in a similar way, and at different times, even in the centre of the Empire, to several hordes who demanded settlements; and this explains why it was that fiefs were not confined to the frontiers only.

However, without wholly clearing up an origin certainly very obscure, we must still conclude, that, under the first race of kings, a great many estates, under the various names of *fiefs*, *benefices*, *honors*, were granted the king's vassals, either in recompense for services, or to fix a wavering attachment: these are fiefs, though the name may not have come into use till afterwards.

The first estates held by this title, as their very nature indicates, were certainly precarious. They could not, however, be conferred or taken away at the suggestions of mere caprice. The sovereign was bound to consult on this subject with his chief counsellors, that is, with the *leudes*: and as these were the proprietors of the first fiefs, they had consequently to decide on the fate of their peers.

Men were accustomed to maintain themselves in the offices they held by gold or violence, and they adopted similar means to perpetuate their benefices. Legal concessions were even extorted from the weakness of princes. They were obliged, at first, to respect the title of possession during a year, then to renew it, to render it for life, and, finally, hereditary; so that, towards the end of the first race, the greater number of fiefs were transmitted from parents to their children*.

* As the institution of fiefs is certainly one of the most important subjects of modern history, and the groundwork of several of the constitutions of Europe, a somewhat more satisfactory detail of its origin may be looked for, than is given in this chapter.

Our

The noblesse sprung from the succession of benefices. The annalists of the early ages of the monarchy are satisfied

Our authors, in their account of the government of Roman Gaul, have described the origin of the provincial militia. Alexander Severus, amongst other emperors, resorted to this expedient. We find from Lampridius, that he distributed to his officers and soldiers, the lands which he had conquered from the barbarians; but on the express condition, that they should not devolve to their heirs, unless they carried arms. "*Sola quæ de hostibus capta sunt limitaneis ducibus et militibus donavit, ita ut eorum ita essent si hæredes illorum militarent, nec unquam ad privatos usos pertinerent. Dicens hos attentius militaturos si etiam rura sua defenderent, addidit sane his et animalia et servos, ut possent collere quod acceperant, ne per inopiam hominum, vel per senectutem desererentur rura vicina Barbariæ, quod ille turpissimum ducebat.*" LAMPRID. in *Alex. Sev.* p. 202. This example was followed by Probus, relative to the lands of Isauria, a region of Asia Minor. VOPISCUS, in *Probo*, cap. 16. It followed the ravages of the barbarians, and was introduced into the interior of the Empire. It was extended to soldiers who had not attained the rank of veterans, on condition of their guarding the frontiers, the passages of rivers, castles, and towns; whence came the various appellations of *limitanei*, *ripenses*, *castellani*, *burgarii*. The barbarians themselves were assigned lands as the price of repelling other hordes, and to fill up the waste caused by their ravages. Maximian, Constantius Chlorus, Constantine, and Valentinian, submitted to this remedy.

Lands thus granted, on condition of military service, were called benefices. St. Augustin makes allusion to the oath taken by soldiers on receiving them: *Notum est quod milites sæculi temporalia beneficia a temporalibus dominis accepturi, prius militaribus sacramentis obligentur, et dominis suis fidem servaturos profitentur.* SER. I. in VIGIL. *Pentecost.* The benefices, in fact, were so numerous, that each province had its particular register, called *liber beneficiorum*. "*Si qua beneficia concessa aut assignata colonia fuerint, in libro beneficiorum adscribimus.*" HYGENUS, *de Limit. Agror.*, cited by Ducange, at the word *beneficium*.

It appears, therefore, that under the Emperors, lands were granted on condition of military service. We have next to inquire, whether this usage was adopted by the Frank conquerors of Gaul.

In the general distribution of lands among the followers of Clovis, certain territories, under the name of fiscal lands, were reserved to the crown. They were at first intended as a provision for the prince, and for the maintenance of his dignity. But his necessities soon compelled him to use them as a means of supporting his power. They were granted, under the title of benefices, to his courtiers and others, either to reward their services, or to secure their attachment. Like the benefices of the Romans, these grants implied the condition of military service, though in

with recording a series of frightful crimes ; but we have only to contemplate this period more profoundly, to per-

this respect they differed from them, that, on the death of the possessor, the fiscal benefices reverted to the crown. But were these benefices *fiefs*? The condition of military service was common to them both. The grants made by Charles Martel to his officers were called benefices ; and it is acknowledged by every one, that these lands were afterwards known by the name of fiefs. The word vassal, *vassus*, which, in feudal language, means a person who holds of a fief, prevailed long before the latter word came into use. In the laws of the Alemanni, drawn up by Thierry, who reigned from the year 511 to 534, and corrected by Dagobert about 630, mention is several times made of the *vassals* and *arriere vassals* of the sovereign. *Conquestio de vasso qui justitiam facere renuit ; hominum vassum, omnibus vassis regis*, are also terms which occur in the formula published by Baluze, and framed in the time of Grimoald, Mayor of the palace under Sigebert II., who died A.D. 656. In the proofs, collected in the Appendix to the History of Alsace, by Laguille, is inserted a charter of the year 728, in which Eberard of Alsace calls his vassals, *wassos nostros*.

According to Henault, the word fief was not adopted in the French language till about the tenth century ; and it is maintained by him, that the origin of fiefs can be traced no higher. But the words used to express the relations of feudality, such as *fides, fidelitas, devotio, fidelis, devotus, hominum, militiæ, milites, &c.*, were all in use before this period, and applied to benefices. Nothing can afford a stronger proof of the identity of the two words, and that the introduction of the term feudum solely arose from the decay of the Latin, and prevalence of the barbarian language. Aimoin says of Clovis, "*Milidunum castrum Aureliano cum totius ducatu regionis jure beneficii concessit.*" *Hist. Franc.* lib. ii. c. 24 ; and he, no doubt, speaks of the same territory that the Counts of Melun, who claimed descent from Aurelian, afterwards held of the French kings by feudal tenure. The records of the tenth and following centuries, every where afford proofs of the identity of the words *beneficium* and *feudum*. They are taken indifferently, and are only used as different ways for expressing one and the same meaning. In a charter of 1087, apud Mir. tom. i. page 515, we read the words *beneficium quod vulgo dicitur feudum*.

From the benefices, therefore, of the Romans, adopted by the Franks, arose one class of fiefs. All the degrees of feudal subordination at first formed no part of benefices, but gradually sprung from the parent institution. It became a common practice, especially after Charlemagne, for the holders of benefices to carve out portions of their estates, to be held by tenures similar to those by which they themselves held of the sovereign. "The oath of fidelity," says Mr. Hallam, "which they had taken, the homage which they had paid to the sovereign, they exacted from their own vassals. To render military service, became the essential obliga-

ceive, that the struggle which had now arisen between princes and their great vassals, was the primary cause of

“tion which the tenant of a benefice undertook ; and out of the ancient grants, now become, for the most part, hereditary, there grew up, in “the tenth century, both in name and in reality, the system of feudal “tenures.” HALLAM, c. ii. part 1.

There is yet another class of fiefs, of which the origin, like those derived from benefices, may be also traced to the Romans. The offices of duke and count, in use among the Romans, were adopted by the Franks. Charged with the military and judicial government of provinces, the very nature of their trust afforded facilities for aggrandizement, when the sceptre, wielded by weak and imbecile hands, was no longer able to repress their encroachments. They seized the crown lands, amassed estates in their several jurisdictions, and united adjoining counties to their own. And although Charlemagne checked the progress of their usurpations, by limiting them to one county, and by appointing itinerant judges for the administration of justice ; yet, under his successors, they renewed them with more success than ever. Both Louis the Debonair and Charles the Bald, suffered several counties to be united under the same person. Nothing, in fact, was wanting to the independence of these officers, except the permanency of their possessions. Under the Merovingian race, with the exception of a few great fiefs, such as those of Bavaria and Brittany, the grants of the crown had been generally revocable at the will of the prince. This was more particularly the case with the offices of duke and count. The son, it is true, may have often succeeded the father ; but it was always understood to be by the special favour of the sovereign. In the decline of the Carolingian race, this principle was forgotten. In an assembly held under Charles the Bald at Coulaines, A.D. 843, it was declared, that, for the future, no person should be deprived of his fiefs and dignities, unless a sentence, founded on reason and equity, should have previously condemned him to forfeit them : and, four years after, a capitulary enacted, that at the death of a count or other vassal, his son, if he had one capable of succeeding him, should take his place. As the power of the crown still declined, the great vassals advanced in the career of independence. In the tenth century, they had become real sovereigns, owing nothing but feudal homage and military service to the king, as lord paramount. It was then, too, that they introduced the practice of adding the name of their province or county to their own. As to the free or allodial proprietors, in what way the feudal system involved the dependence of their tenures, is explained at the end of this chapter ; though it is probable, from the weakness of the crown, that protection was first sought by them, in submitting to the superiority of the neighbouring lords, rather than to that of the sovereign. Their adhesion completed the chain of feudal subordination. See *L'Etat Civil des Personnes*. HALLAM, *Hist. Mid. Ages*.

all those sanguinary convulsions. In proportion as the number of the latter increased, some few of them became the exclusive confidants of their sovereign. Greedy and ambitious like their masters, they induced them to pass acts of repeal or spoliation, which sometimes threw the whole kingdom into revolt, always those who were affected by them. Such is the history of the famous rivalry of Fredegunde.

We have hitherto spoken of the original fiefs conferred by the crown. But disorder and confusion augmenting from year to year, from age to age, a considerable number of allodial tenures were reduced to fiefs or *arriere fiefs*. Privileges were assigned the king's vassals, and his sceptre afforded protection. It became desirable to enjoy this rank, and this introduced the custom of changing the allodial into feudal tenures, by the freeholder resigning his land to the king, who restored it to him again under the title of *benefice* or *fief*. A formula of this kind is still extant*. In this description of *fief*, the right of succession could not be disputed; a quality that was probably one reason for afterwards regarding all lands known under this name, as possessed by hereditary title. Fear, we conceive, on the one part, and violence on the other, the need of protection, and the desire to oppress, afterwards created among subjects an order analogous to that which had at first existed between the king and some of his subjects. "Every one," says the great man to whom we must always recur, "entered, if I may so express myself, into the feudal monarchy, because the political monarchy was now no more."

§ 9. *Justice.*

Power is justice. Society, in fact, only establishes superiorities for fixing rights and relations, for maintaining the rules necessary to its existence. Hence it is that justice is

* Marculfus, lib. i. formula 13.

the constant attribute of royalty, or hence in every state it emanates from the sovereign. In the unhappy age we are treating of, this principle was forgotten. We are there struck with the singular spectacle of the most august prerogative of the crown parcelled out and divided, and in some measure become the immediate consequence of possessing a particular portion of the soil. This spectacle, then offered for the first time, is worthy of fixing the attention of those who meditate on the principle; end, and results of human institutions. The judicial offices had been at first occupied by royal officers; but the disorder introduced into every branch of the administration no longer kept aloof from justice. The king's judges were superseded and expelled, and violence usurped the place of law.

To explain the astonishing revolution which made justice a right of fief, it may be observed that the composition formed all the legislation of the Franks. The injury committed, or the blood shed, was paid for: the family of the offended party were then excused the sacred duty of revenge, while society preserved a member sometimes rendered valuable by his audacity or genius. But in addition to what was given the relations, as the price of atonement, there was also a fine due to the judge of the territory in which the action had been committed. The legislator, no doubt, intended this as a sort of public expiation for a public offence, and calculated to prevent its recurrence. It was called *fredum*, and like the composition, proportioned to the crime.

“ Here I see the origin of the jurisdiction of the lords.
“ The fiefs comprised very large territories, as appears
“ from a vast number of records. I have clearly proved
“ that the kings raised no taxes on the lands belonging to
“ the division of the Franks: much less could they reserve
“ to themselves any duties on the fiefs. They who obtained
“ them had, in this respect, a full and perfect enjoyment,

“ reaping every fruit and possible emolument from them.
 “ And as one of the most considerable emoluments was the
 “ judiciary profits (*freda*,) which were received according
 “ to the usage of the Franks, it followed from thence that
 “ the person seized of the fief was also seized of the juris-
 “ diction, the exercise of which consisted of the compo-
 “ sitions made to the relations, and of the profits accruing
 “ to the lord; it was nothing more than ordering the pay-
 “ ment of the composition of the law, and demanding the
 “ law fines *.”

It is as well to observe, however, that if the crown thus lost its finest prerogative, it at least preserved the original title. The king no longer administered justice, but it was his duty to take care that it was administered; and this, as a species of service attached to the fief, he could compel the lords to discharge.

Thus was an order established which, after proving

* Montesquieu, lib. xxx., cap. 20. The first traces of seignorial jurisdiction are found in the benefices, granted by Clovis and his successors from the fisc to ecclesiastics. These benefices were generally conferred with the right of justice. See Marculfus, Form. 14, 17, lib. i. When the crown had no longer lands to bestow, it finished by alienating the justice it had hitherto administered. In a formula of Marculfus, lib. i, iii., the king declares, that on the petition of such a bishop, he confers upon him, as a benefice, the following privileges: “ that no royal judge should at any time enter the villages dependant on
 “ his church, whether to administer justice therein, to demand bail, or col-
 “ lect fines, *freda*; that the emoluments of justice, as well over free men
 “ as serfs, should henceforward belong to the bishop in the limits or circle of
 “ his church.” There were similar forms for monasteries, as well as for secular persons. The judicial independence of the bishops and other great proprietors is also recognised in the constitution granted by Clotaire II., A.D. 614, one hundred and three years after the death of Clovis. Those who possess estates in districts where they do not reside, are forbidden to choose officers for the administration of justice and collection of its emoluments, out of the limits of such estates. *Episcopi vel potentes qui in aliis possident regionibus, iudices vel missos discussores de aliis provinciis non instituunt nisi de loco, qui justitiam percipiant et aliis reddant.* D. BOUQUET, *Recueil des Hist. Franc.* tom. iv. p. 119, art. 19. cited in *L'Etat Civil des Personnes.*

during several ages, a scourge to the people, left shapeless and confused, our whole judiciary system, down to the period when its very foundations were overthrown.

§ 10. *The Clergy.*

The catholic clergy had admitted the Franks, and many favoured their conquest, because, abandoned by the emperors, they dreaded much less the government of the pagans, than that of the Arians of the south*. The former were strangers to persecution, and the clergy could indulge the hope of converting them to catholicism. Nay, there is reason to believe that before the conquest, the light of the faith had already illuminated many of the barbarians.

The church during the first ages preserved the use of the Roman law. The bishops, men remarkable for their age and sanctity, and affording striking examples of christian benevolence, won the veneration of the barbarian kings. Before their conversion they respected them; become christians, they made them their counsellors. These used their influence in protecting the unhappy vanquished, and in exercising a kind of beneficial patronage. And, although it be true that some, abusing their influence,

* Clovis, after his conversion to christianity, was the only *catholic* king then in the world. The Emperor Anastasius favoured the Eutychians, the king of the Vandals in Africa, Theodoric King of the Ostrogoths in Italy, Alaric King of the Visigoths in Spain and the south of France, Gondebaud King of the Burgundians, were all Arians. Dict. Hist. Lyon, 1804. The Visigoths and Burgundians who had settled in Gaul before the Franks, were the principal opponents of Clovis after the Romans. It was in his contests with the kings of these people, that he derived the most assistance from the clergy, almost all of whom were of the catholic faith, and consequently ready to assist him against their heretical masters. The conversion of Clovis is attributed to his wife Clotilda, niece of Gondebaud King of the Burgundians, but of the catholic faith. Had the Frank king fallen into other hands, and become an Arian, it is more than probable that the power of the Roman bishop, unsupported by the throne of France, would never have extended beyond the limits of his diocese. Still more likely will this appear, if we recollect the important results which followed the connexion of Pepin and the kings of the second race, with the pope.

changed it in the sequel into an odious tyranny; as, for instance, Gregory of Tours, speaks of a bishop of Auvergne, who, in the first century of the monarchy, violently seized the lands which bounded his domain, and threw into prison a priest who refused to give him his property; yet we must not attribute to violence, as a principal cause, the rapid increase in the wealth of the church. It had a purer origin. The donations bestowed on it, instead of being extorted, were regarded in those times of ignorance, as well by those who accepted, as by those who made them, as expiations—as the *price of sins*, to borrow the language of a law of Carloman. We learn also from various records that the virtues of the ecclesiastics frequently afforded a happy recompense for the evils of those disastrous times. Humanity more than once found advocates in the ranks of the church. Can we be surprised that the people should load them with benefits, of which they made so praiseworthy a use?

The ecclesiastics were indebted to royal munificence for *fiscs* or benefices. They had, therefore, their vassals like the laity, and like them led them to war, though this duty was sometimes intrusted to their *advocati*. It was as late as towards the commencement of the second race, before the clergy could exempt themselves from the military service which they owed as kings' vassals.

As barbarism spread, the higher clergy, now the only men almost who preserved any traces of the ancient civilization, acquired a fresh degree of influence. We shall hereafter point out other causes and circumstances which produced a total revolution in the state of the clergy, and made them, what they had never been under the Romans, a political body.

§ 11. *National Assemblies.*

Among the Gauls and Franks, by a remarkable coincidence, we find alike prevail the early use of those great

assemblies in which the nation convoked, deliberated on its most important concerns, and exercised supreme power. These nations, originally, were probably no other than two branches of the great Celtic stock, and their conformity in this respect is, therefore, the less to be wondered at.

The assemblies of the Franks were held every year in the months of March or May, which has left them the famous name of *Champ de Mars**. All the freemen of the nation came there in arms; the king, surrounded by his leudes was present. It was at once a review and a diet†.

The Franks, after the Conquest, being dispersed over the whole country, either as depositaries of power or land proprietors, it became difficult to convoke them. From that time, therefore, the assemblies gradually became rare and incomplete, and they were soon all but superseded by councils composed of leudes and prelates. Some other personages, it is true, who belonged to neither of these classes were summoned; but, even had all the Franks scattered over the country been convened, it is not the less evident that the nature of the assembly would have been now changed. Anciently, all the free men composed a part; at this time, a distinction was created between them. The allodial proprietors, whether of Roman or barbarian origin, formed a new class between the higher ranks and their serfs; and this class was not called to the assembly, which regulated affairs of state in conjunction with the monarch.

The face of government then experienced a change. The

* Under the first race of kings, the people were generally convoked on the first of March. Pepin, thinking this too early in the year for the troops to take the field, changed it to the first of May. "*Ibi placitum suum campis madis, quod ipse primus pro campo Martis pro utilitate Francorum instituit, tenens, multis muneribus a Francis et proceribus suis delatus est.*" Fredegarius à 766. From that time these assemblies are called indifferently *Champ de Mars*, and *Champ de Mai*.

† LEGENDRE, *Mœurs et Coutumes*. Reign of Pepin.

nation assembled had hitherto dictated laws: it was thenceforward to receive them from the king, assisted by a council of his own formation. The democratical principle was destroyed, and all that now remained to be apprehended, were the abuses of aristocracy or despotism.

These new councils are described by various authors under the names of *placita*, *conventus*, *parlamenta*. Some are of opinion that the origin of parliament should be referred to this source; and, although this is a point difficult to clear up, it is at least evident, from the existence of such assemblies, that in every age of the monarchy the regal authority has been prescribed by some limits. Among other powers these councils decided on the great affairs of administration, exercised judicial power over the grandees of the kingdom, and conferred the regency. At the head of some edicts of this period we read *cum fidelium nostrorum consensu atque consilio*. Upon the whole, they may be considered as occupying a middle station between the Champ de Mars and the states-general*.

§ 12. *Of the Mayors.*

Originally the mayor was no other than one of the officers who bore the title of *domestici regis*. He presided over the order to be observed in the palace, and his power extended not beyond the threshold. This trust insensibly became the most important in the royal household: it was granted for several years fixed, then for life, and finally became hereditary like the crown.

As long as the mayor was only an officer of the palace,

* It may be observed also, among the many causes which tended to produce a change in the character of these assemblies after the Conquest, that wars did not now take place every year, and that, consequently, so much of their interest was lost in the eyes of a warlike people. But every year increased the civil affairs which demanded the attention of government, and added to their intricacy. These, therefore, were left to the bishops and principal laymen, who soon came to form the sole advisers of the sovereign.

the king appointed him : become the second personage in the kingdom, he was elected by the nation, that is, by the assembly of principal lords and ecclesiastics who represented it.

The extraordinary spectacle was then exhibited of two dynasties equally respected reigning together ; one bearing the diadem of royalty, the other holding the sceptre of power. The posterity of the mayor, like the members of the blood royal, were held sacred. “ The extravagant passion of the nation for Pepin’s family, says Montesquieu, went so far, that they chose one of his grandsons, who was yet an infant, for mayor : they put him over one Dagobert, that is, one phantom over another*.

The mayors under the title of *Dukes of the Franks*, were prime ministers and commanders-in-chief. Invested with supreme authority, they were kings in every thing but the title. Pepin Heristal paved the way to his descendants for acquiring this title also—for, superseding those *monarchs of the palace*, of whom the people knew but the name, the accession and death. The indolence of character which distinguished the successors of Clovis, and the ability of some mayors, no doubt greatly contributed towards the establishment of this singular government ; but there is yet another cause worthy of notice. The leudes and prelates would probably favour the extension of a dignity exercised by one of their peers ; the former, because they could equally aspire to it ; the latter, because they found in it a means of extorting fresh largesses. Finally, the mayor might be sometimes considered as a kind of tutor placed by the national body over the king, to attend him in his most secret actions, and to direct all his resolutions.

§ 13. *Charles Martel*. (8th century).

The victorious sword of Charles Martel accelerated the

* Lib. xxxi. cap. 6.

revolution, to which the situation of things necessarily tended. He took different steps from his predecessors, and instead of lending himself to fruitless measures with the great, thought only of attaching to his fortunes the companions of his triumphs. The vast riches acquired by the clergy were seized, and distributed.

This æra is remarkable. The grants made by Charles, were made in perpetuity, but at the charge to the possessors of preserving their faith, and rendering him military service. According to several writers, this is the true date of fiefs. But who can warrant this establishment to have been any thing more than an imitation of what was already in existence*. It is enough, however, to notice the difference of opinion which prevails on points of this kind ; to discuss them would be a waste of time and words.

Charles Martel reigned alone for some time, but without taking the title of king. He died, and his son Pepin having but one step more to take, mounted the throne, and commenced in his person the sway of the second dynasty.

§ 14. *Pepin-le-Bref,*

Was a man endowed with great courage, a high degree of prudence, and precisely with that kind of genius fitted to consolidate the power gained by his ancestors. He governed with moderation ; and, while he strove to render the nobles favourable, at the same time consulted the interests of the clergy. A part of the property of which this order had been despoiled was restored, and the establishment of the *précaires*† made some amends for the other. “ Without adopting,” says the president Henault‡, “ any system on the succession to the crown, it will be “ sufficient to observe historically, that at Pepin’s accession, “ it was seen for the first time pass into a strange family. “ Under the first race it had been always worn by the de-

* See note on § viii. † For an explanation of this term see § xv.

‡ *Abrégé Chronologique de l’Histoire de France, Règne de Pepin.*

“ scendants of Clovis only ; without respect, it is true, to
“ the right of primogeniture, or distinction between bastard
“ and legitimate children, and with division. It was held in
“ the same manner under the second race by Pepin’s chil-
“ dren ; but, just as he had despoiled the lawful heir, so
“ were his descendants dispossessed in turn. Finally, under
“ the third race, the successive hereditary law is so well
“ established that kings are no longer masters of deranging
“ the order of succession, and the crown belongs to the
“ eldest son.”

Pepin, it appears, demanded and obtained the consent of the grandees for placing on his head the crown of the imbecile Childeric ; but he chiefly founded his usurpation on the support of another authority, which by this act of submission he at once created sovereign. Hitherto the bishops had only given their sanction to the regal power, as placed among the chief personages of the state by their rank, their wealth, and virtues. The church was now called upon to consecrate a manifest violation of the respected principle of hereditary right. Its august chief, for the first time, established a religious bond between the race of the new monarch and his subjects. Fidelity became a duty of which the wrath of Heaven was to punish the breach. The ceremony of coronation was introduced.

It has been said, and with a good deal of probability, that Pepin paid for the eminent service thus rendered to his crown, and that the famous grant by means of which the head of the faithful became an Italian prince, was the price. Our business is not to examine whether the pontiff had a right to interfere in a political convention between the throne and its subjects, or if the new king could grant territories in Italy to a bishop of Rome, but merely to state a fact which changed the face of royalty in our monarchy*.

* This change of dynasty deserves particular notice from the connexion which it produced between the see of Rome and the French government, and the important results which followed. Pepin, mayor of the palace,

§ 15. *Charlemagne.* (9th century).

The darkness which enveloped Europe before and after the reign of this prince, serves to give it an additional splendour. The clouds of night are for a moment dissipated.

Considering Charlemagne in the light of a legislator, the reform which he effected bears upon four principal points ; the national assembly, the internal administration, justice, and the clergy.

Pepin had restored the Champ de Mai by convoking every year the principal members of the clergy, and of what we may now term the nobility ; but this was rather a mark of deference on the part of the monarch, than as evincing any intention of acknowledging the rights of the nation to any share in the sovereignty.

Charles knew that if he did not gain support to his will in this assembly by the concurrence of men not belonging to the two classes which had hitherto composed it, his wishes for the amelioration of things would never be realized. He came to a resolution, therefore, to introduce the deputies of that larger part of the nation, since called the *third estate*, into the Champs de Mai. This he succeeded in effecting ; and thus was formed that alliance between the throne and people, of which the object was to

appealed to the Pope Zacharias, as to the justice of the deposition of Childeric III., the descendant of Clovis, and his lawful sovereign. He received a favourable award, and with the consent of the Franks, mounted the throne. On the other hand, a religious quarrel had alienated the Pope and people of Italy from the Greek domination. The Lombards, masters of the country which still goes by their name, were extending their conquests into the south, and threatening Rome itself. It was necessary to seek assistance somewhere. The pontiff called in the aid of Pepin. This prince marched into Italy, chased the invaders from their recent acquisitions, and bestowed them on the Pope. They comprised nearly the provinces of Romagna and the March of Ancona. The protection of the interests of the holy see thus devolved on the new dynasty of the Franks. Finally, the elevation of Charlemagne to the throne of the Cæsars re-established the western empire, and opened a new and more ample field to papal policy and ambition.

terminate the evils resulting from the conquest of the barbarians, and to which we shall see the kings of the third race remain almost always faithful. Thus, too, was the primitive and fundamental principle of the French government for a time re-established.

Charlemagne instituted two assemblies each year. The first and the most solemn was the Champ de Mai. Affairs of importance were there deliberated upon, and laws passed. The emperor, in order that the deputies might discuss the national interests with perfect liberty, did not appear among them, says Hincmar*, but when solicited to terminate their disputes, or give his sanction to their resolutions. The second assembly was held in autumn, and over this the emperor presided in person. This was a kind of *placitum* or *parlamentum*, in which the subjects to be discussed in the great national assembly were prepared.

What Charles performed for the administration of the state was scarcely less important. He divided the kingdom into districts or legations, and these legations into counties. Unable to destroy the custom now rooted, of considering the offices of dukes and counts as property, he at any rate endeavoured to weaken the tyranny resulting from it. He created an institution of which, they say, the legislation of the Lombards offered him the example; that of envoys or royal commissioners (*Missi dominici*,) charged with visiting the legations every three months, and with holding pleas in them, in which all the persons of note in every district were obliged to attend, and which formed by turns administrative councils, and assizes of justice.

The establishment of these assizes served as a palliative to the evils arising from the usurpation of justice by the lords, and even tended to restore to the crown this fine prerogative. Charles thus levelled the first blow at the numerous abuses introduced in preceding centuries; but,

* *De Ord. pal.* cap. xxx.

through the dread of giving men's minds too rude a shock, he was constrained to hold a measured course, and to leave a part of the disorders uncorrected. The people, however, were satisfied, and hailed their sovereign with the title of benefactor. "Since the establishment of the lordships," says Thouret, "they had so lost all idea of their rights and dignity, as to be disposed to receive as a favour all the ill which one was kind enough not to do them*."

The church property, confiscated by Charles Martel and given up to his officers, was then the subject of perpetual disputes and serious embarrassments. The clergy never ceased to claim, and the nobility to refuse, its restoration. Pepin had confirmed the possession of this property for life, subject to a rent to the former proprietors, which was called *précaire*; but by this measure he only suspended the quarrel.

The *précaire* was converted by Charlemagne into tithe; the canons, which ordained the election of bishops by the people and clergy, were restored to vigour; ecclesiastical jurisdiction was extended, the privilege of clerkship, that is, of having on no occasion any other judge than the bishop, was confirmed; and the clergy satisfied—left their property to those who were in possession of it.

Thus arose the impost of tithe, which was in the end extended to so many other domains, of which the title to possession was not marked by the same illegitimate character.

As to Charlemagne, nature seemed exhausted in the creation of such a man in such an age. We henceforward see nothing but imbecility and folly. The empire and France were successively wrested from his feeble posterity, and a new revolution finally deprived them of the crown itself, as it had before been taken from the race of Clovis.

* *Abrégé des Révolutions, &c.*

§ 16. *Capitularies.*

These were the laws enacted by the national assemblies, convoked under Charlemagne and his successors. They were promulgated in the emperor's name, but the necessity of the national assent for giving them the force of law is formally expressed : *Lex consensu populi fit et constitutione regis* is the language of these acts. We see in the sequel that Charlemagne had reserved to himself the right of giving a provisional execution to certain capitularies ; but such did not become definitive laws, until they had received the sanction of the Champ de Maï.

At first, as we have seen, each distinct portion of the population preserved its peculiar laws. The Roman, Salic, and Burgundian were equally maintained and respected. But the face of society undergoing a gradual change, legislation necessarily experienced a similar metamorphosis. In time, a kind of confusion was produced between the various laws, like that which prevailed among the different races of men who peopled the soil. Usages, adapted to the new state, often superseded even the laws. It was the spirit indeed of ancient legislation, rather than that legislation itself, which now governed the people.

The capitularies were political, administrative, ecclesiastical, or civil : they were framed for completing what yet subsisted of the sum of ancient legislation, and in some measure replaced it.

We would observe, that the direct object of these new laws, being in general the suppression of abuses introduced under the first race ; that a system yet more pernicious being brought in under the second, through the imbecility of the monarch and encroachments of the great ; that feudal usages being every where established as fiefs extended, the capitularies necessarily relaxed in vigour, and fell to decay. Under the third race they sunk into oblivion :

in an age when men knew no longer how to read or write, the only laws known were the caprices of the most powerful. The institutions of Theodosius, of Clovis, of Charlemagne, all sunk into a common abyss. Customs, in the intervals of tranquillity spared from the ravages of the sword, were introduced in their place.

§ 17. *Charles the Bald.*

The institutions of Charlemagne had not produced a revolution sufficiently complete, and barbarism had made too much progress for the new order of things to remain permanent, if genius ceased to wield the sceptre. The people, for a moment rescued from their degraded state, could not but fall into it again when no longer supported by their monarch. "In the age we are describing, if the prince were ambitious and enterprising, he necessarily, by crushing the great, rendered himself a despot; if weak and spiritless, the great, in ruling him, as necessarily re-established over the people the yoke of their ancient privileges*."

Louis, surnamed the Debonair, son of the great Charles, was a species of crowned monk. He armed equally against him both the formidable orders which his two predecessors had contrived so well to manage and restrain. Weak and suspicious, he dreaded and soon ceased to convoke those assemblies to which his father had gloriously yielded a share of his authority. He permitted the grandees to become the oppressors of the people, and even of the clergy; while in his own person he suffered the royal authority to be degraded. In fine, every thing went to decay under his administration.

During the wars which desolated France at the death of Louis, a change was introduced which proved nothing less than the forerunner of a total revolution. Freeman

* Thouret, p. 96.

were left at liberty to choose their lord between the king and his *grandeess*: this was confirmed by a treaty entered into between the three brothers after the famous battle of Fontenay. The inevitable consequence of which was, that since the sceptre could no longer afford protection, the subjects passed to a more profitable vassalage. And thus the holders of fiefs saw every day augment their power, the king, his decline.

Things being in this state, but one step more remained for Charles the Bald.

Hitherto neither the fiefs nor great offices had ever been alienated in perpetuity, although violence or weakness had sometimes perpetuated the possession of a few. Charles at first declared that the fiefs should be given to the possessor's children: he was soon obliged to apply this rule to the office of count. The counts, delegates of the king, came in a little time to be on a footing with the owners of fiefs, and their charge to be converted into a real lordship. Henceforward we see nothing but a monarch decorated with the vain title of lord paramount, and vassals in possession of all the rights of sovereign power. The authority of the king ceasing to be immediate, was now nothing more than a shadow which a breath could dissipate. His capitularies and envoys became the sport of ridicule. The revolution was consummated, and the feudal government established.

§ 18. *Hugh Capet.* (10th century).

The posterity of Pepin continued to wield the sceptre a century after Charles the Bald. A Louis and a Carloman sat on the throne, as it had before been filled by a Clovis and Childeric. Yet a change of dynasty was a no less necessary consequence of the political order recently established. "The inheritance of the fiefs and the general establishment of *arriere fiefs*, extinguished the political

“ and formed a feudal government. Instead of that prodigious multitude of vassals, who were formerly under the king, there were now a few only, on whom the others depended. The kings had scarce any longer a direct authority ; a power, which was to pass through so many and through such great powers, either stopped or was lost before it reached its term. Those great vassals would no longer obey ; and they even made use of their *arriere-vassals* to withdraw their obedience. The kings deprived of their *demesnes*, and reduced to the cities of Rheims and Laon, were left exposed to their mercy ; the tree stretched out its branches too far, and the head was withered. The kingdom found itself without a *demesne*, as the empire is at present. The crown was therefore given to one of the most potent vassals *.”

Whether it was by the success of his arms, or with the consent of a national assembly, that the Duke of France mounted the throne in place of the descendant of Charlemagne, uncle of the last king, is a point of history still obscure. But it is probable that at first acknowledged king by the vassals of his own fief, his title was afterwards confirmed by the tacit consent of the other great proprietors ; who, only intent on establishing full sovereignty in their respective fiefs, viewed with a degree of indifference a crown, so destitute of strength as to be unable to exact from them even the semblance of feudal homage.

Before this revolution, and it is worthy our attention, the crown had been at once hereditary and elective ; hereditary, inasmuch as the king was chosen in the same family ; elective, since the choice was confined to the children of the deceased monarch †. The occupation of

* Mont. lib. xxxi. cap. 30.

† The accession of Pepin to the prejudice of Childeric, the lawful sovereign, must be here excepted. See § xiv.

the throne by the master of one of the fiefs composing France, to the exclusion of the lawful heir, introduced new principles in relation to the crown. It is evident that all the equals of Hugh, that is, all the possessors of great fiefs, enjoyed equal rights with himself, and as a consequence, that the crown might have become elective among the great vassals ; that, in fine, France may have seen a constitution established, similar to that of which the remnants yet govern the empire.

The ability and courage which distinguished the first monarchs of this race, the institutions, eminently national, by means of which some of them hastened to relieve the people, probably prevented the settlement of such an order of succession. Public gratitude, in fact, soon perpetuated in their favour the ancient rule which fixed the crown in the royal race ; and strong themselves in this support, they were able to render triumphant over feudal anarchy, at first their own rights, and finally those of their subjects.

But how was established the principle of direct succession, and in the order of primogeniture which has since prevailed without exception ? It was in the nature of fiefs precarious or for life, not to be liable to division. Rendered perpetual, they necessarily preserved this character, at first, because it had before existed ; afterwards, because the service attached to possession made it an almost necessary consequence. The right of seniority then resulted from the perpetuity of fiefs. Now royalty at this period was nothing but the possession of a fief. Analogy introduced the principle of primogeniture with regard to the crown, and the experience of the people has since rendered it a sacred and constitutive law of the monarchy.

§ 19. *Feudal Government.*

We have now to show the consequences of what we have just described, and to point out the basis of that feudal

government, which during three centuries weighed on our country.

The king was lord paramount of all the lands in his kingdom, and held but of God and his sword. His immediate vassals were in their turn, lords paramount of the nobles whose domains held of their fief; and these last, again, of that unhappy multitude which formed the lowest order in the state. In this manner, from the king down to the lowest subject, all were enveloped in the folds of feudal tenure.

The great vassals were those lords who, under the title of dukes, had usurped extensive provinces, or such of the ancient officers of the crown, as having once rendered their counties independent, had afterwards enlarged them by conquest.

The nobles of the second rank were termed barons, and villains, the inhabitants of the country, always the first victims of systematic robbery.

But as in human affairs, even where the greatest disorder; prevails, some vestiges of reason still remain, we see usages arise, and rules established, which diminished, though in a slight degree, the evils of this social order. Thus reciprocal obligations arose between the lord and vassal. The nature and duration of service, which the latter owed the former, were fixed according to circumstances. Some limits to the authority and rights of the lord, were equally confirmed by time and custom. Duties also, as in every state of legislation existed, because there were rights, and the violation of these duties was punished, on the part of the vassal, by the loss of his fief; on that of the lord, by the forfeiture of his rank of lord paramount. But let us confine ourselves to what more particularly relates to the political state of France at this period.

The king, as lord paramount of the great vassals, had merely the right of calling them to the common defence of

the territory, and even this right was sometimes disputed. As possessor of a fief, he had no authority except over the vassals who held of it—nay, if an under fief devolved to him, he could become the vassal of a person, to whom he was, as king, lord-paramount.

It was held as a feudal principle that the lord had a right only over his own vassal, none over the under vassals; that is, over all those who held of this vassal. This principle had rendered the king sovereign of the comparative few only who held immediately of him, leaving all his subjects under the real domination of those few.

The great feudatories and barons armed their vassals, and marched with banners displayed, to exercise acts of vengeance, or of justice, to conquer or pillage. They coined money, held superior courts, in which they decided feudal points, and assizes where they pronounced according to the jurisprudence which has bequeathed us the duel: THE JUDGMENT OF GOD.

§ XX. *The Church.*

Under the first race, the bishops ranked on an equality with the leudes: at the commencement of the second, they preceded the great. When the feudal government was established, either of their own accord or by compulsion, they descended into the second rank, and were obliged to acknowledge a lord paramount. Thenceforward, subjected to all the duties of vassalage, they discharged alike the service of *pleas* and *arms*. Either in person, or by their lieutenant, they marched their tenants to the field under the banners of their superior lord, and took their seats in his court for the administration of justice.

We may suppose that these personages, to whom what knowledge and virtue then prevailed was almost wholly confined, were generally placed by the king and his great feudatories, on a footing with their *barons*; that is, with

their immediate vassals. This, as the following pages will show, is a circumstance of some importance. It explains the origin of ecclesiastical peerages.

The high clergy were gradually reduced to a state of debasement, always the forerunner of disorder. Absurd superstitions were then associated with doctrine; discipline was relaxed; the canons were forgotten; the hand destined to confer benediction, wielded the sword. Some sought in cloisters a shelter against military oppression; and while the labours of a part cultivated and enriched the soil, the vigils of others discovered and prepared those treasures of ancient literature, which were destined to restore the reign of civilization.

We must not forget to add, that it was at this period, when justice was scarcely administered at all, when a continual struggle was kept up between the feudal officers charged to announce their masters' laws, and the bailiffs, whom the kings opposed to them; that the church established and extended that jurisdiction, which, by the most monstrous abuse, made the pope a kind of sovereign judge in the kingdom.

§ XXI. *Communes.*

It would be difficult to draw a correct picture of the situation of France, at the period to which we are advanced. A king, whose sway extends not beyond the limits of his fief. A crowd of avaricious and overbearing despots, divide the country into as many petty sovereignties—every where ravage it with their armed men, and throughout extinguish all commerce and industry. The clergy are degraded. The people—almost every individual not of noble rank, is a serf; and the serf bends beneath the hard and ignominious yoke of slavery. The only occupations in vogue, are those of fighting, burning heretics, and fasting. Laws, administration and police, lie at the caprice of the powerful, and their sword decides every thing.

Such are the ages of feudality. Those who look at chivalry only, contemplate its poetic side, and are not struck with the sad reality of a vast population reduced to slavery and wretchedness. Though to do it justice, this institution by lessening the violence of rapine, and introducing some ideas of honour, which tended to its suppression, was so far serviceable to humanity.

The excess of the evil at length produced its own remedy. As no ideas of order and government prevailed, plunder alone could contribute to the enterprises, or to the subsistence even, of the lords. Despising legal rights, they organized at the head of their men at arms, a system of arbitrary contributions, which put the finishing stroke to the distress of the country, but from which soon after arose its deliverance.

The royal domains being a prey to the same violence, the king, sensible of his inability to terminate it of himself, at length conceived the idea of calling on the people in their own defence. He made them contribute; but this was definitively, and for putting a period to their misfortunes. He sold them the right, which nature and society gave, that of uniting together to repel unjust aggressions, and for establishing regulations of police. This is what is termed the right of *commune* or *corporation*.

The name of Louis the Fat is for ever famous in our annals, as being the prince to whom the first charters of freedom, and the creation of communes are referred. Whether in this measure he had really the good of his subjects at heart, or only devised it to draw money from their pockets, it is difficult to determine; but even in the latter case, says Mably, “since he did not take it without granting something in return, he would still deserve our praises*.”

* Abbé MABLY. *Observations sur l'Histoire de France*, tom. ii.

These charters are the most interesting monuments of our history. They are the first triumphs of the spirit of civilization over barbarism : and while they bring to light the disastrous ages in which they arose, we see in them the cradle of our industry, arts, and liberties.

Communes multiplied rapidly, because the lord, seeing no other means of obtaining money, granted charters also. They formed towns. They had a right to choose magistrates, to raise companies of militia, guard their fortifications, and repel force by force. The king was on some occasions guarantee of the conventions entered into between the lord and his freemen ; then mediator of their differences ; and, finally, sole master of both.

All this powerfully contributed to neutralize the force of the feudal government.

§ 22. *Philip Augustus.*

The pilgrim, who drew all the west to the tomb of Jesus Christ, changed the face of Europe, and gave anew blow to the institutions of feudality.

The crusades ruined several great vassals, and restored the power of kings, the natural chiefs of these expeditions. They worked a kind of renovation on the barons of Christianity. And besides these effects, it has escaped notice, how much influence a residence in the East must have had on the manners and ideas of men, and how much the spectacle of the despotism of the caliphs, and blind obedience of their subjects, must have contributed to ground the authority of the Christian princes.

Philip Augustus may, in some respects, be considered the first King of France of the third race. He was indebted for the establishment of his power to the following circumstance.

The king of England was then a vassal of the French crown, for several fiefs which he held in the kingdom.

John, surnamed Lackland, whose great charter has rendered his name immortal, was at this time sovereign of England. Arraigned as the murderer of his nephew Arthur, Duke of Britany, he was cited before the tribunal of the great vassals of the French crown. He refused to appear. The tribunal passed a decree, confiscating all his domains: the great vassals themselves assisted Philip in carrying this famous decree into execution; and the king, in acquiring Normandy, Anjou, Maine, Touraine, Poitou, Vermandois, Auvergne, and Artois, ceased to be on a footing with his powerful vassals, gained the means of keeping an army on foot, and, through this great innovation, was able to humble their pride and reduce their power.

We have now before us a subject, one of the most interesting connected with the ancient public law of our country.

§ 23. *Peers.*

From the earliest ages of the monarchy a maxim prevailed, that each individual ought to be judged by his peers. The origin of this is discoverable in that other maxim of the German nations, that every one should be tried according to his own law. The first, indeed, appears a natural consequence of the second.

Some traces of this principle still survived in the times we treat of, when scarcely any other rule of justice was known than the will of the strongest. In fact, the nobleman who found himself invested with the functions of judge, as a consequence of his possessing a few towers begirt with a ditch, was necessarily obliged to call those to his assistance, who were competent to take cognizance of the different causes submitted to his decision. Thus, in his pleas, his vassal-nobles were obliged to sit, when feudal matters were agitated—bishops or abbots, when ecclesiastical affairs; and after the establishment of the communes,

when civil points were the subjects of discussion, the inhabitants of those communes.

It was then a principle we repeat, frequently violated, it is true, but nevertheless fundamental, that every man had a right to a tribunal composed of his peers, or at least *sufficiently furnished with his peers*, as the old treatises express it.

But this term must also be considered in another point of view.

It seems, that at a very early period, they called peers of a lordship, the vassals who held of it simply and immediately, who were of the same rank, and were bound to the same duties. They were *peers* or *equals*, not of their lord, but with respect to each other.

Under the first descendants of Hugh Capet, the great vassals were the *peers* of the first of all lordships—the crown. This title belonged to them all alike, since all had alike sworn faith and homage to the king. But the king also possessed a fief; and this circumstance, from the course of events or regal policy, led to a change of great importance. It happened that the immediate vassals of the royal *fief* found themselves placed in the rank of immediate vassals of the *crown*, because there was no longer any intermediate order between them and the king. As such, therefore, they formed part of the monarch's court of *pleas*. The great vassals, who also formed part of this court, offended at being placed on an equality with the simple barons of the royal fief, sometimes gave vent to their indignation, and refused to sit with them. But the king's will finally triumphed over their resistance, and under Saint Louis it was held as fixed, that the very circumstance of holding immediately of the crown, constituted the being a peer. We read the following passage, in a letter written by this monarch to the chapter of Beauvais: *Quòd episcopus Bellovacensis in baronia, et in feodum hommagii ligii*

*de nobis teneat apud Bellovacenses, ET QUOD PAR SIT EX EO FRANCIAE**.

We would observe, however, that the great vassals alone formed, with the king, *the court of peers of the crown*; that is, the only court which could take cognizance of their persons and differences; that the barons naturally composed *the court of royal pleas*, whose business only lay with the vassals of the royal fief, and of which the jurisdiction did not extend beyond this fief; but that, by a degradation in the dignity of the first, the two *courts* came to form but one only, seized of their respective attributes, and called by turns, *court of peers, of the king, or of France*. Again, a distinction existed between the equal members of this tribunal. The first, the true peers, were amenable to it only so far as the titularies of the great fiefs were summoned there, or in other words, only so far as it was *sufficiently furnished with peers*†.

Here two interesting questions occur. When did the institution of peers become a permanent establishment? When was the number of peers reduced to twelve?

“How is it that we have not reflected,” says a writer on this subject, “that in a country, which had neither laws nor legislative power, and in which the instability of men’s minds prepared and produced new revolutions without intermission, the institution of twelve peers must resemble the other establishments of that period, which were formed by hazard, in a slow and almost imperceptible manner, and were, at length, found wholly established on a certain occasion, without its being possible to fix the precise period of their birth‡.”

Let us not, then, abandon ourselves to fruitless inquiries for fixing a date which has, perhaps, no precise existence.

* MARLOT, *Hist. Métrop. Rem.* tom. ii. p. 517.

† DU TILLET, *des Pairs*, p. 373.

‡ MABLY, *Observ. sur l’Histoire de France*, tom. ii.

It is in fact a very vague point, since, as we have already seen, the peer must in some degree be considered in the light of two distinct persons, *as great vassal of the crown, and member of the king's court*—a distinction which the chronicles have not attended to.

The President Hénault is of opinion, that there were six lay peerages, since there were six great fiefs held immediately of the crown. Nothing more probable.

These peerages were, the duchies of Normandy, Burgundy, and Guyenne; the counties of Flanders, Toulouse, and Champagne.

We would thus explain the origin of ecclesiastical peers. We have seen what was the rank of the clergy under the first and second race. They then sat in the assemblies before the nobility, and nothing of importance was transacted without the concurrence of their principal members. Under the third race, this splendour very much declined; but the memory, with some traces of it, yet subsisted: the clergy were still summoned to the pleas of the *lords*.

The ecclesiastics, we may conceive, would be more willingly admitted into the king's court, from that policy which necessarily led him to restore the church to its former state, in order to oppose it more successfully to the nobility. In that court, therefore, they still sat on an equality with the barons.

When the king was constrained to confirm the establishment of the six great lay peers, he probably sought to weaken the influence of this new power, by associating to it six other peers, whose titles should be derived from the crown. These would naturally be chosen from among the vassals of the royal fief, composing the king's court; but the distance between the *barons* and the great *feudatories* was too great to admit of choosing the first, and associating them with the second. The bishops, members of the same court, were not, it is true, as immediate vassals of

the royal fief, of superior rank to the barons; but ancient usage had placed them in another class. They could rank on terms of equality with those whom they had once preceded. Hence, then, the creation of six ecclesiastical peers, namely, the bishops of Rheims, Beauvais, Langres, Noyon, Chalons, and Laon.

§ 24. *St. Louis.*

This monarch, saint before God, and so great before men, powerfully contributed to the destruction of the feudal edifice. By means of his civil institutions, he accomplished what Philip Augustus had done by arms. He abolished the use of the judicial combat in his domains, and in lieu of the appeal by combat, ordained that the litigant who thought himself wronged by the sentence of a court, should have recourse to a superior jurisdiction. The lords gradually adopted this usage, and the custom of appealing from the vassal to the lord paramount, was thus established. Now, as the king was supreme lord paramount of all, appeals arrived in regular gradation up to his court, and thus was the supreme administration of justice once more restored to the crown.

To facilitate these appeals, great tribunals, called *bailiwicks*, were afterwards instituted. The bailiffs enjoyed a jurisdiction imposing from its extent; and to be able to enforce their decisions, were at the same time intrusted with the command of the militia. They appointed royal cases, that is, particular cases, of which the seignorial judges could not take cognizance. These cases always remained somewhat vague, and it was this which chiefly promoted the encroachments of the royal judge on the jurisdiction of the nobles.

From the character of sovereign judge, which the king had reconquered, there was but one step more to that of legislator. Louis brought the French to acknowledge this

title in him, by acting with great moderation, and by regulating that only by general laws, of which all France complained. His successors were able to advance more boldly. Philip the Fair, in ascending the throne, had without dispute the right of making laws for the whole kingdom. The exercise of this prerogative was at first necessarily limited, but in the end could not but complete the ruin of the feudal government.

§ 25. *Philip the Fair.* (14th century.)

This is one of the most remarkable reigns in the history of our monarchy. Now it is that we see the scattered and confused elements of the government of France re-united, re-organized to a certain point for forming a constitution, of which the principles, in the sequel, will be seen frequently neglected through the carelessness of the people, disowned through the folly of ministers, violated by the despotism of the court.

Philip was endowed by nature with a profound genius, a firm character, and an ambitious soul. Like his predecessors, he wished to reduce the great vassals; but his policy was the less generous, since the object of it was to domineer equally over all his subjects.

The privilege which still supported the lords, was that of coining money. The frequent alterations they made in the specie, brought them considerable sums; and as it was a scourge to the people, they sometimes sold them the renunciation of this pernicious prerogative. The annual sums paid for preventing operations of this kind were termed *monneagés*.

Philip, after having, in the commencement of his reign, frequently changed the specie and altered its value in a manner ruinous to the nation, made some amends for the mischief he had done by issuing a new coinage, and declaring, that all those who brought back the old specie

should be indemnified for their loss. He went farther. Sure of being supported by public gratitude, he ordered that for the future, one of his officers should watch over the coinage of every seignorial mint; he next, under various pretexts, suspended the right of coining any money except that of the crown; he then gave currency to this throughout the kingdom, and, finally, proclaimed a general prohibition against the fabrication of specie in any other place than the royal mint.

The nobles were too weak to resist openly. They submitted; and thus was the source dried up, from whence they could yet derive any degree of power. They were no longer able to keep in pay any formidable bodies of troops, and when the king, soon after, prohibited them from disturbing the public peace by waging private war, they were again obliged to bend.

The total fall of the feudal government must be placed under the sons of Philip the Fair; but the reign of this prince himself, is yet deserving our attention.

§ 26. *The Parliament*.*

What particularly characterizes the history of our public law is a series of facts which attest, that our country has never been governed by an absolute will; and that authority has at all times been dependent for support on the accession of at least one portion or class of subjects. This as-

* The parliaments of France were sovereign courts of justice. That of Paris was the chief. It was divided into eight chambers. "The grand chamber, where causes of audience were pleaded; the chamber of written law; the chamber of council; the Tournelle Criminelle, for judging criminal affairs; the Tournelle Civile, in aid of the grand chamber; and three chambers of inquests, in which processes were adjudged in writing. Besides these, there were the chamber of vacations, and those of requests. In 1771, the king thought fit to branch the parliament of Paris into six different parliaments, under the denomination of superior courts, each parliament having a similar jurisdiction."—*Encyc. Art. PARL.*

sertion, of which the justice will be readily acknowledged, should be held constantly in view, while surveying the history of latter ages. Almost every thing there appears under a different aspect.

No historical point has been so much debated as that of the origin of parliament. None has given rise to so many discussions. Considered by turns as a court of justice or a political body, each has had his system, according as he wished to attribute or deny to it a greater or less degree of importance. The question, rarely examined with impartiality, far from being cleared up, is only left the more obscure by these inquiries.

Let us follow with fidelity the course we have adopted. Charlemagne, it has been seen, instituted two kinds of assemblies; 1st. The Champ de Mai, which was no other than the ancient Champ de Mars, regulated; 2d. The *Placitum*, or *Parlamentum*, which differed little from the council of leudes under the first race.

The first ceased with the establishment of the feudal system; the second continued in being, and formed that to which we have before alluded as the *king's court*, or court of *royal pleas* *. But here another distinction occurs. When St. Louis abolished the jurisprudence of the barbarous ages, new forms of procedure were naturally introduced. It became necessary to hear and confront witnesses, to examine records, and weigh arguments. It was to be expected that those who knew only to handle the sword would thenceforward fall into the second rank; while the lower clergy, and members of the communes, the only men of the age at all enlightened, would as necessarily take some share in the conduct of affairs. This, in fact, happened, and led to a remarkable change. For the barons, keeping aloof from a court into which *clerks* and *villains* were admitted, there thence arose, in some measure, two

* See § 23.

tribunals in one body. This body, composed as we have described it, and presided over by a royal officer, formed the *court of the palace*, and could take cognizance of most causes. In some instances, the concurrence of the king and his ordinary assessors was required ; and it then formed the *court of royal pleas**.

The first occurred more frequently every successive reign ; the second daily became more rare. The assizes of the first were termed *parliaments*, a title which they still retained when they had become nearly permanent : the sessions of the second appear to have given rise to the usage of *beds of justice*.

Philip the Fair, by a famous ordinance promulgated in 1302, made the court sedentary at Paris, and assigned it two assizes annually : *Propter commodum subditorum nostrorum et expeditionem causarum proponimus ordinare ; quòd duo PARLAMENTA Parisiis tenebuntur in anno*, are the words of this ordinance.

In this manner, then, the parliament replaced the king's court, or rather a section of the king's court. By this title it became the court of peers, when the peers attended. We shall see, in the sequel, what modifications were brought about by time, in the existence of this celebrated body.

§ 27. *The States-General.*

Those who maintain parliaments to have been the real states-general of the nation, accumulate quotation on quotation to attest a fact which proves nothing,—that the parliament had really superseded the ancient king's court. This is indisputable ; but the object more particularly in view with these writers is to prove, that the king's court could be assimilated to the first national assemblies. Now, every thing contradicts this supposition.

* LE COMTE DE BUAT, *des Origines*, tom. i.

Every thing proves, that the presence of the third class of the nation was always necessary for constituting a national assembly. The early ages of our history, the reign of Charlemagne, and the period under consideration, alike attest it. During the time that this class may be said to have had no political existence, there were many councils of leudes or barons, many *placita* or *parlamenta*, but no national assembly; and the existence of these councils only proves what we have before advanced, that the assent of a greater or less number of Frenchmen was always necessary to change into law the expression of the sovereign's will.

When the liberty of every one disappeared, who could not be ranked among the nobility or clergy, the national assemblies disappeared also. They returned with the freedom of the communes.

Philip the Fair, engaged in one of those struggles with the sovereign pontiff, which, some centuries ago, shook the throne of kings, thought it necessary to rally round him the whole strength of the nation, for sustaining the honour and rights of his crown against the arrogance of Boniface VII. He formed, therefore, in 1301, in the church of Notre Dame at Paris, a national assembly, one of those since known under the name of states-general. The three orders composing the French nation, the *clergy*, *nobility*, and *third estate*, were there represented by deputies. This, without contradiction, is the most august of all the ancient institutions of France, and the more worthy our notice, since, by a singular coincidence, it is so closely connected with the origin and subversion of the monarchy. In reading our history, we experience continual regret, that, no less by the government than the states themselves, it has been so rarely understood.

§ 28. *Assemblies of Notables.*

The formation of the states required the concurrence of the people : the government every year making fresh advances to absolute power, dreaded more and more the calling them to the election of assemblies, that would naturally be reminded of their ancient supremacy.

An image, therefore, of the states-general was formed, called the assembly of notables. The deputies to this body were chosen by the king.

There is little remarkable in the composition of these assemblies, except the introduction into them of a fourth order, if such it may be termed. This was the magistracy ; who had formed no part of the states-general, because the nobility would not receive them into their ranks, and they would not associate with the third estate.

The assemblies of notables convoked in France have left no remarkable monument of their existence. They were never useful, because they were a manifest alteration of the primitive constitution of the monarchy*.

* An assembly of notables was convoked by Francis I., A.D. 1527, to determine the validity of that article of the treaty of Madrid, by which he had engaged to resign to the Emperor the duchy of Burgundy, and other lordships. This assembly was composed of the lords and great officers of the king's household, of three cardinals, twenty archbishops and bishops, the first presidents of the parliaments of Toulouse, Rouen, and Dijon, a president of the parliament of Grenoble, the second president of the parliament of Rouen, and the fourth president of the parliament of Bourdeaux ; of the provost of merchants and the four sheriffs of Paris, three counsellors of the parliament of Toulouse, two of the parliament of Bourdeaux, one of that of Rouen, one of that of Dijon, two of the parliament of Grenoble, and two of the parliament of Aix.—MABLY, lib. vii. c. 2.

An assembly of the same description was held in the parliament after the battle of St. Quentin, and others at subsequent periods.

§ 29. *Beds of Justice.*

Their origin may be referred, as we have seen, to the revolution which, towards the reign of Philip the Fair, took place in the king's court, and from which arose the parliament. The king and his barons ceased to form an ordinary part of this court, but took their seats therein on occasions of importance, when the usual tribunal was not competent to decide alone.

When the court of parliament arrogated to itself that political influence which, as a check upon the royal authority, would necessarily devolve on a body of some kind ; these extraordinary sessions changed their object, and were principally intended to make the opposition of the magistrates bend before the imposing apparel of regal state ; though the very name of beds of justice, which they preserved, might have recalled the end of their original institution.

In beds of justice, a powerful instrument was devised for braving the public voice, and contemning the counsels of the prudent. They became one of the most ordinary resorts of inexperienced and weak ministers : they gave a death-blow to the constitution, and rendered the government absolute.

Charles the Wise, in particular, established the usage of beds of justice ; and the nation, which had seen nothing but troubles arise from the frequent formation of the states under the preceding reign, thought it perceived in them a sufficient resemblance to those famous assemblies. The politic monarch, for his part, found in them a much surer means of accomplishing his views, without having recourse to violence.

§ 30. *States General, John the Second.*

The calamities of France commenced with the Valois. Nearly all the princes who bore this name were incapable or unfortunate. The kingdom was on the point of falling into the power of the English under the first branch, and into that of the Spaniards, under the second. Battles lost and kings captive, dissensions and massacres, are the most prominent features in the history of this period.

The principle of the salic law excluding women from the crown, had received a fresh sanction at the accession of Philip de Valois. It would appear also, that from this reign might be dated another fundamental law, which, although too often overlooked and disowned by Philip and his successors, the people had nevertheless a right to claim the execution of. We mean the law which requires that the impost should receive the assent of a national assembly.

John, desirous not to excite discontent in the nation, as his father had done, convoked the states in 1355; but followed the practice adopted under certain circumstances by his predecessors. There were two assemblies. The states of the *langue d'Oyl* were convoked at Paris; those of the *langue d'Oc*, beyond the Loire. The government thinking by this division, the more easily to manage them.

The bills passed by these states, and converted into ordinances, are of some celebrity. Among the most important, it was enacted that three deputies from each of the three orders, should form a council charged with representing the assembly, after its dissolution, at the king's court. The king engaged himself to consult them in every important affair, and especially when subjects relating to peace or truce were agitated.

Three deputies, named *elect*, having under their superintendency the officers charged with the receipt of the aid granted, were sent into each bailiwick. The money was to

be sent to Paris, and deposited in the hands of receivers-general, who were also placed under the inspection of nine commissioners.

The *elect* and officers of aids took an oath not to disburse any sum of money except in the payment of the troops, to resist the illegal orders of the king or his council, and to repel force by force.

It was agreed that if the king did not observe these articles, the subsidy granted him should have no effect; that no resolution should be adopted, except the opinions of the nine commissioners were unanimous, and that the parliament should be called to reconcile their differences.

We have only to read these articles to appreciate their importance. They seemed destined to lay the foundations of a government in which the nation was to act an useful and permanent part. An inquiry into the causes that prevented the establishment of such a government at this period, of a constitution composed of powers duly balanced, would prove one of the most interesting subjects our annals afford: but the limits we have prescribed ourselves will not permit such an investigation. We will merely observe, amid the series of troubles which agitated the kingdom from the accession of John to his death, the three principal phases which but too often mark revolutions, liberty, anarchy, and despotism.

The states of 1355 had enjoyed a noble independence, and re-established the nation in its most valuable rights; but those which met during the monarch's captivity and the administration of the dauphin, were marked by disorder. The people, excited by the spirit of faction, committed every kind of excess. Kings harangued them, and the *Jacquerie* signalized their destructive rage. At length, tired of murder and rapine, they once more submitted their passions to the yoke of authority. The King of Navarre was expelled the kingdom: Marcel betrayed and assassi-

nated. The Dauphin resumed the reins of state, and his conduct, at once firm and prudent, secured the triumph of the crown over the popular party. On his return from captivity, the king found the royal prerogative extended still farther than under his predecessors. He levied imposts by his own authority ; and though he assembled the states, which had now become an annual custom, the sceptre awed the deputies into submission, and made them confine themselves to insignificant remonstrances*.

* It may not be here irrelevant to take a summary view of the different legislative bodies that have existed in France. The latest capitularies are those of Carloman, A.D. 882. The institution which formed the most distinguishing feature in the government of the Franks—the *Champ de Mai*, then fell into disuse. The royal councils which succeeded it were composed of barons, tenants in chief, dignified ecclesiastics, and officers of the household. It differed little from a privy council, and its functions were chiefly limited to the king's fief. There are a few instances, however, of assemblies of a more national character. The crusade of Louis VII. was undertaken in a congress of barons held in 1146. It was agreed to terminate private wars in a similar meeting of barons and prelates under the same prince. Another in 1188 imposed the *saladine* tithe. An assembly of French barons, convoked by St. Louis, refused an asylum in France to Innocent IV.

The *cours plenières*, or assemblies of the barons at the great festivals of the year, seemed to have been in general for purposes of pageantry. From the end, indeed, of the ninth century, to the beginning of the fourteenth, a regular national convocation was unknown. The crown was subject to no restraints of this kind. And yet in no age, perhaps, was it less powerful. It was a feudal principle that the sovereign could promulgate no new law in the territory of his vassal without his consent. This independency freed the barons from the jurisdiction of the king, and rendered them indifferent to his measures.

The convocation of the states-general by Philip the Fair, the introduction of the third estate or commons into that body, seemed the æra of a free constitution. The same order, but a few years before, had been summoned to the parliament of England. They there, in conjunction with the nobles, constantly advanced in the career of liberty, and finally took the lead in legislative importance. In France, in common with all the other orders of the state, they sank into comparative servitude. It would be difficult, in the whole history of the human race, to find such different results flowing from such apparently similar causes. There was this material difference, indeed, from the very first ; that, in England, the commons were summoned for the important purpose of assessing their share of the public

§ 31. *The Regency.*

Charles V., having mounted the throne, no longer assembled those states which it had cost him so much trouble to restrain during his regency. He replaced them, as we

contributions,—in France, for defending the independence of the crown. The first convocation of the states general took place in 1302. They met again the year following, and again in 1312, for pronouncing the final suppression of the templars. In 1328, an assembly, to which some historians refuse the title of states general, was held at Paris for confirming the pretensions of Philip VI., called of Valois, to the French throne. Under circumstances of this kind it was, that the states of France were generally convoked. The crown had recourse to them only in critical emergencies, and no longer thought of them when the danger was past. It never considered them as a branch of the constitution, and whatever rights they arrogated under the favour of circumstances, were, in the sequel, constantly overlooked and contemned. An historian of the sixteenth century relates that Louis Hutin bound himself not to levy any tax without the consent of the three estates. HALLAM, c. ii. p. 1. A charter of this kind was precisely what was wanting ; but, unhappily, it could never be found. The states, however, always contended for the right of taxation. A duty upon salt levied by Philip the Long, excited so much discontent that he was compelled to convoke them. But Philip VI. renewed and augmented the same duty on his own authority.

After the famous states of 1355, held by King John, they met in March of the following year, and again in October after the battle of Poitiers. The next three years were each marked by assemblies of states. This regularity seemed to promise them a real and permanent share in the government. But the disposition to encroach on the rights of the crown, manifested by the states, or at any rate, the dread of this encroachment on the part of the government, led to a misunderstanding between them. The dauphin availed himself of the circumstances of the moment. Oppressed from without by a powerful enemy, and a prey to faction within, the sounder part of the nation saw no other means of safety than in rallying round the throne. The states of 1359 were favourable to its measures ; and John, after his return from captivity, found no difficulty in levying taxes without the formality of their consent. Charles V., his successor, convoked them at Paris in 1369, for their advice and assistance in the war with England ; and this was the only instance of a similar act of deference during his reign. But at the accession of Charles VI., A.D. 1380, the contest was renewed. The states compelled the government to repeal all taxes imposed since the reign of Philip IV. “ We will, ordain and grant,” says the king, “ that the aids, subsidies and impositions of whatever kind, and however imposed, that have had course in the realm since the reign of our predecessor Philip the Fair, shall be repealed and abolished ; and we will and

have seen, by parliamentary sessions, which only afforded an imperfect image of them. The people enjoyed repose under his temperate administration, and forgot they had been so near acquiring a political existence.

“decree, that by the course which the said impositions have had, we or our successors shall not have acquired any right, nor shall any prejudice be wrought to our people, nor to their privileges and liberties, which shall be re-established in as full a manner as they enjoyed them in the reign of Philip the Fair, or at any time since ; and we will and decree, that if any thing has been done contrary to them, since that time to the present hour, neither we, nor our successors, shall take any advantage therefrom.” HALLAM, *Hist. Mid. Ages.* (*Ordonnances des Rois*, t. vi. p. 564.)

This was going a good way towards the establishment of a free constitution ; for no one can doubt, that had the states once obtained the privilege of granting money, but the cause of freedom would have flourished equally well in France as in England, where this right, firmly maintained, won so many other concessions. But the triumph of liberty was of short duration. The factious spirit of the people, and the arbitrary measures of the court led to an open rupture, which turned as usual to the advantage of the crown. The states were convoked under the same prince, on two occasions besides ; once in 1382, and again in 1412.

In 1420 an assembly, which most historians style the states general, was held at Paris for imposing a general tax in the shape of a forced loan. They were called together in 1439-40 for advice on the war with England. Louis XI. assembled them at Tours, A.D. 1468, principally with the view of justifying before them his conduct towards Prince Charles his brother. Thus from the reign of Charles V. to that of Louis XI., a period of upwards of a century, the states were convoked but seven times. During all this period the sovereign levied taxes on his own authority ; and when he did convoke the states, it was generally on subjects foreign to this right, though they seldom failed to assert their pretensions to it.

At length, a favourable opportunity for establishing their privileges was again afforded the states at the accession of Charles VIII. A difference as to the mode of settling the regency during the minority of that prince, led the princes of the blood, at the head of whom was the Duke of Orleans, to demand their convocation. They were accordingly convoked at Tours, A.D. 1483 ; but no sooner were they met, than the government, dreading the consequences of their interference, proceeded to sow disunion among the members. Two of the six nations into which the states were divided, proposed the formation of a council, to be composed not only of the princes, but of deputies elected by the states. The other four opposed this, and the two former were obliged to concede. On the subject of taxation, their sentiments were more unanimous. They demanded the abolition of the *taille* and all other illegal taxes, and that from thenceforward “according to the natural liberty of France,” the crown should levy no new

We here come to the consideration of a point, certainly one of the most important in a constitution, and generally the most neglected ; since it is in the nature of sovereign

imposts without the consent of the states. They at length made a grant of the taxes payable in the time of Charles VII., with an additional fourth on the king's accession. They granted this too, as they declared, not as a tax, nor as liable to be called a tax, but as a gift and concession, and only to remain in force two years, when another meeting was to be convoked. Upwards of twenty years, however, elapsed before the states again figure in history, and then not as the representatives of the nation, but as the instrument of the court. This assembly, held under Louis XII., "was the work," says MABLY, "of the Countess of Angouleme for effecting the marriage of her son with the Princess Claude, and the deputies of the provinces manifested no regret for the past, nor solicitude as to the future." *Observ. sur l'Histoire de Fr.*, lib. vii. c. 2.

It has been the curse of the French nation in every age, and in none more so, I am apprehensive, than the present, to be easily seduced by the eclat of military glory, and those glittering vices which follow in its train. In the sixteenth century they were far more attentive to the wars of Italy, to the conquest of Milan and Naples, than to the defence of their rights against the encroachments of arbitrary power. The reign of Francis I. completed the delusion, and stamped that character on the people which they have ever since retained. "Never prince," says the author whom I have just quoted, "had more the manners, the disposition, the vices, and the virtues of the people he governed, and consequently none could enjoy more absolute power." The states were never once held under his reign : and the assembly convoked by Henry II., A.D. 1558, for reforming the abuses of the administration, not being preceded by a regular election of deputies, was rather an assembly of notables than the States General.

This body met in the reign of Charles IX. A.D., 1560. The remonstrance presented by the third estate, on this occasion, contained no less than three hundred and fifty articles, arranged under the various heads of the church, nobility, justice, police, tailles and imposts, and commerce. It was transferred to Pontoise the following year.

The religious troubles, which continued to prevail during the reign of Henry III., compelled him twice to have recourse to the states. They met at Blois in 1576, and again in 1588. But the disorders of the kingdom had now risen to too great a height to be removed by any thing less than the severe hand of a master. They terminated only with the accession of Henry IV. The states were held for the last time under Louis XIII., A.D. 1614. In reading their proceedings, one is struck with the little show of public spirit and unanimity exhibited by the members. The deputies of the provinces, divided into governments, quarrelled about precedence, and were willing, rather than compromise the dignity of their respective

power to concern itself little with the time when it must cease to be. We speak of the regency.

Under the second race, and at the commencement of the third, the king did not attain his majority until his two-and-twentieth year, or rather, as he was not considered a king until crowned, the regents, in order to preserve their power, delayed as long as possible the ceremony of coronation. A principle generally prevailed, which forbade the guardianship of the young prince and the regency to be confounded; and custom required that the first should be conferred on the king's mother, the second on one of the princes of the blood. Sometimes, as in the case of the celebrated mother of St. Louis, we find these two characters united in the same person. From the time of Charles V. that practice was always followed.

Philip the Hardy was the first of our kings who regulated the majority and regency by an ordinance; but his ordinances received no execution after him.

“The regency,” says Mezerai, “has been settled in three ways: 1st. When the king without being afflicted by illness, but through foresight, or because on the point of leaving the kingdom, established the government he wished the state to enjoy during his absence, or after his decease. 2d. When the king, finding his death approaching, instituted such regency in haste, and with the inconvenience inseparable from hurried measures. 3d. The regency ordered by the state in default of the king's ordinances, and *which is good and legitimate**.”

Charles V., in 1374, published two ordinances; one countries, to degrade the whole body by submitting to the award of the king. The third estate, it is true, made some indications of a better spirit. They remained in session after the other two orders had separated, and continued to discuss their grievances. The absolute mandate of the king finally dissolved them; and with them terminated, till the æra of the revolution, what share the people had hitherto enjoyed in the government of the country.

* *Mémoires Historique et Critique*, tom. ii.

fixing the majority at fourteen, the other disposing of the regency in case of the monarch's death. In the first it was said: *Donec decimum quartum ætatis annum attingerint*, which was afterwards interpreted to mean, that the fourteenth year should be commenced, but not completed. The ordinances of Charles the Wise were despised at his death, but the declarations conformable to them published by Charles VI. have perpetuated the principles: "they are become," says the President Henault, "the fixed jurisprudence of our public law on this subject."

§ 32. *Louis XI.*

Nothing can be conceived more frightful than the situation of France from the time when Charles VI. lost the crown by his folly, to that in which Charles VII. re-conquered it. The towns pillaged in turns by all parties; the country laid waste by armed men and fiscal agents; two great factions, the Burgundians and Armagnacs, rivalling each other in murder and robbery; all laws trampled under foot; a princess culpable as a woman and a queen, as a wife and mother; an imbecile monarch; a fugitive and proscribed dauphin; the great degraded; magistrates destitute of power; a people intoxicated with fury; a foreigner, in fine, admitted within our walls, and elevated to the throne. Such was France. Miracles—a Joan d'Arc could alone save her.

When Charles VII. had once more become peaceable master of his dominions, such changes were perceptible in each of the three orders of the state, as could not but accelerate the progress of the crown towards absolute power. The people scarcely remembered the rights they had exercised under King John, and consequently evinced no disposition to reclaim them. The clergy had separated their cause from that of the other two orders by an arrangement with the crown, and by establishing, with regard to the

impost, *gratuitous gifts*. The nobles, in fine, losing all hopes of restoring the feudal government, had drawn near the throne which they had so long shaken ; they demanded a share in the royal administration, now that time had destroyed every other privilege, and expected in return for their devotion to the monarch's cause, some indemnity for what they had lost in wealth and honours.

The great accordingly acquired considerable authority : as first counsellors or chief agents of the monarch, they assisted him in establishing a permanent militia, and a perpetual impost for its maintenance. These were the *gend'armerie* and the *taille*.

The iron yoke of Louis XI. oppressed alike all classes of Frenchmen. He at first wrested from the nobles, by means of his soldiers and executioners, the influence which they had been suffered to assume under his father ; but towards the end of his reign, he restored them some share of political importance, by declaring that his son Charles should transact nothing of importance without the advice of the princes of his blood, and great officers of the crown. The people alone remained in the condition to which preceding reigns and the tyrannical sceptre of Louis had reduced them. They no longer met in the states convoked by his successor, except, as the authors of the age express it, *to deal out money at his pleasure*.

§ 33. *Registration.*

We have seen the origin of the parliament in the king's court. At first a mere tribunal, it seemed in some degree to become a political body when the king, accompanied by his ministers, great officers and nobility, took his seat therein—but then only.

Before Charles VI. the parliament held two sessions in the year, and its members were annual. It became permanent under this prince. The custom also was then esta-

blished of judges holding their office during the life of the king by whom they were appointed. But they were obliged to be confirmed by his successors. The virtue and intelligence of these magistrates had gained them a consideration which had only increased during the crimes and disorder of civil commotion. They were sometimes called to the king's council.

When there was no longer a national assembly charged with bearing the sentiments of the public to the foot of the throne, it is natural to believe that all men to whom the idea of absolute power was insupportable, would turn their attention to that body whose imposing countenance seemed alone capable of opposing any resistance to royal authority. Thus it was that public opinion increased still higher the influence which the parliament already enjoyed. It excited it to stand up as the natural protector of the people ; and invested it, in some degree, with the *right of remonstrance*.

This right caused the king, and especially his ministers, to aim with increased solicitude at gaining the assent of the company. They consulted it on their measures and decrees ; and to prove its approbation introduced the practice of publishing their ordinances in the assembly, and transcribing them on its registers. The parliament drew from this idle ceremony, the precious right of registration.

This privilege wrought a total change in the political circumstances of the parliament. That body successively pretended that if it was to enregister the law, it could examine it ; that this examination implied the power of modifying ; that this power again implied the right of rejection ; and finally, that if registering was a quality essential to a law, it was law only when it had gone through this formality, and that it was hitherto without force or effect. The company thus came to be associated with the legislative power. Unfortunately the crown could, and

always did dispute with the parliament this high prerogative. The king could always remind it, and at least with some share of speciousness, that at first it was nothing but a court of justice. Hence arose an almost perpetual struggle between regal authority and parliamentary influence. The latter sometimes contended with success, because it was supported by the whole weight of public opinion.

Numerous volumes have been written for and against the rights of parliament; but a general reflection, not hitherto offered, may probably decide the question. A political right, in fact, is a principle of order. One may say it is, because it is. It is time which consecrates it, and every day's duration adds to its first value: it becomes a national legitimacy, and is then as valid as royal legitimacy. The title no longer signifies any thing; we are to consider only the simple fact of possession.

Applying then these principles to parliaments, we perceive their rights to have been as respectable and sacred as those of the dynasty; that in treating of either, one no more ought to mount up to the establishments of Philip the Fair, than to the accession of Hugh Capet. We see, in fine, that parliaments, whatever may have been their origin, had become the depositaries and legitimate guardians of such of our ancient liberties as still survived, from the very circumstance that no other body then existed which could perform this part. But, some one will say, could not the government always return to the ancient constitutive principles of the monarchy, and oppose the states-general to the parliament? This measure was undoubtedly within its reach; and to this it had recourse,—but too late. It opened the abyss, and was the first to perish.

§ 34. *Court of Peers.*

The parliament acquired the right of sitting in judgment on peers as it had obtained that of enregistering laws; by

skilful and measured steps. It was natural enough too that this body, succeeding as it did the king's court in the characters of tribunal and council, should replace it also in its functions of court of peers.

The peers long refused to acknowledge this august prerogative of the parliament. They long maintained, nor can the reasonableness of their arguments be denied, that they alone formed of right the supreme ban of the peerage, and that lawyers appointed by the king had no claim to the title of their judges; but they were gradually brought to concede them this quality, by sharing it.

Having therefore been called into the court of peers as simple counsellors, the members of parliament in their turn called the peers into their body; and, it then became an established principle that the parliament was the court of peers, provided the peers had been summoned to take their seats therein. There are examples of judgments in the court of peers, when not one of that rank was present; amongst others, that of the Maréchal de Biron.

§ 35. *Pragmatic Sanctions.*

The chief glory of the parliamentary bodies is derived from their having always defended and maintained the principles of the Gallican church against the encroachments of the papal see and the stratagems of the Jesuits, favoured as they have been by the ill-advised zeal of monarchs, and culpable compliance of ministers: in having ordered the settlement of the French clergy, after rules equally in harmony with the spiritual authority belonging to the vicar of Jesus Christ, and the dignity of crowns and nations.

To collect the principal points in the history of our ecclesiastical liberties:

The election of bishops and right of presentation to benefices were always the chief sources of contention be-

tween the popes and Christian governments. In France, under the first and second race, the rights of the people and the throne on these subjects were often disputed, several times proclaimed, but still more frequently neglected. Violence then decided this as it did every other question.

St. Louis, in whom profound piety was united to the elevated character of a great monarch, was the first to determine in a precise manner the rights of the Gallican church, and to fix limits to the papal authority. We here present a summary of his famous ordinance called the *pragmatic sanction*, of which the ultra-montanes have disputed the authenticity.

“ The prelates and patrons of benefices shall be maintained in their rights.

“ The cathedrals and other churches shall freely enjoy the right of election.

“ The crime of simony shall be the object of severe inquiry.

“ Promotions and presentations shall be made according to the common law, and the decrees of councils.

“ The exactions and *very heavy burdens* imposed by the court of Rome shall cease to take effect, unless sanctioned by the king and Gallican church.

“ The ecclesiastical immunities shall be generally maintained.”

It would require the most gloomy colours to paint the state of disorder which prevailed in the church in the twelfth and thirteenth centuries, and during the great schism. There was a necessity for reform, and above all for setting limits to papal authority, chief source of all the mischief. Two councils, those of Constance and Basil, attempted it in vain. Princes at length took up the business, and effected in their respective dominions those reforms which the exigencies of the times called for. Thus originated the second pragmatic sanction composed of

twenty-three articles, and carried in an assembly of the states convoked at Bourges in 1438, by Charles VII.

These articles, except that a few underwent certain modifications, were those of the council of Basil. They confirmed the principle that decrees of councils, to have effect in France, required the sanction of the temporal authority. They restored the freedom of elections, and abolished the *annates*. This was the instrument which gave rise to so many contests between the court of Rome and the French government, down to the reign of Francis I.

§ 36. *The Concordate.*

Events uniting Leo X. and Francis I., steps were taken for terminating by a concordate the differences relative to ecclesiastical affairs. An exchange was then made, says Mezerai, of a most fantastical nature. The religious chief assumed the temporal, and left the spiritual to the political chief. The pragmatic sanction was abrogated, and even anathematized by a particular bull of the pontiff: the freedom of elections was abolished, and the nomination of bishops conferred on the king; but the precious annates were, in return, restored to the court of Rome.

All orders of the state exclaimed against the concordate, and demanded the maintenance of the act which it abolished. The parliament for a long time refused to enregister it, and when it at length performed this ceremony, did so by inserting that it was *done in pursuance of the king's order*. A few days after, the same body made a protest, declaring that in publishing this concordate, they neither understood nor approved it, neither authorized, nor even intended to observe it. The university had gone still farther, in forbidding it to be printed. The re-establishment of the pragmatic sanction has been since several times solicited, as well by the states-general, as by assemblies of the clergy themselves; and the concordate has

been commonly regarded as an alteration of the fundamental laws of the Gallican church.

§ 37. *The Council of Trent.*

Two distinct things are to be considered in the decrees of the Council of Trent; dogma and discipline. The dogmatical decisions of this council have never been received and published in France after the ordinary forms, no more than the articles of *reformation*, as the acts of the council designate what relates to discipline: but it has been constantly acknowledged and proclaimed, that the principles of faith professed in the kingdom were perfectly in unison with those adopted by the council. The articles of reformation, on the contrary, have been always held as manifestly encroaching, at least in part, on the liberties of the Gallican church, and the rights of the crown.

We may therefore lay down as a principle, that the Council of Trent has not been allowed in France. Nevertheless, the decisions which the acts of this council embrace, conformably to our ancient ecclesiastical liberties, have been confirmed by the usage of the church, and gained authority; not, indeed, as emanating from the Council of Trent in particular, but as expressing the constant and antecedent rules of the Catholic church. There is no need of other proof that the Council of Trent has been never legally appealed to in the kingdom, than the ordinance of Blois, passed by Henry III. in 1576, and in which various articles of discipline were extracted from the acts of this council, without the name even of the assembly being mentioned.

In 1682, the genius and eloquence of Bossuet prevented the passage of four articles by an assembly of the clergy, which would have irrevocably confirmed the ancient liberties of the Gallican church.

§ 38. *The Calvinists.*

The fifteenth century is one of the most memorable in the annals of the world. Discoveries of which the possible results cannot be yet appreciated, after the lapse of three centuries; the dawn of a great age of literature and the fine arts; the wars of Italy; the elevation of a power to the rank of dominant in Europe; the reformation, in fine, form the principal points in the history of this remarkable age.

Bossuet says, and his opinion is confirmed by the evidence of history, that the obstinacy of the court of Rome, in not suppressing the disorders to which the church was a prey, and which had so long furnished food for satire to the most learned men of the age, was the principal cause of the reformation. The impulse given to men's minds at first necessarily directed them to the abuses of the temporal power of the popes, and to the means adopted by them for sustaining it. People had the courage to discuss both, and even dared attack the doctrines of the authority it was the object to overthrow. The pontifical court shewed no disposition to lighten the yoke. It was broken, therefore, and the writings of a few monks set Europe in commotion.

Francis I., towards the end of his reign, had kindled the flames of persecution. Henry IV. extinguished them by the edict of Nantz, and granted the Calvinists toleration in the kingdom. Louis XIV., through the influence which had formerly dictated persecutions, afterwards revoked this edict.

It is not without a feeling of confusion for the human race, that our annals, during almost a century, are perused. How, it may be asked, could a truth so simple as toleration have cost our country so much blood?

§ 39. *Henry IV.*

The history of the religious troubles of France presents scarcely any thing but a series of crimes and calamities. The whole nation, as if transported with a species of madness, seemed bent on its own ruin : the most absurd fanaticism was allied to the most shameful licentiousness : the people again, as under the first race of the Valois, signalled their power by monstrous excesses ; while the great, no less a prey to ambition than cupidity, excited their fury against the crown, in order, in the sequel, to turn it to their own aggrandizement. They meditated and proposed a new partition of France into great fiefs, as in the time of Hugh Capet. The sceptre, almost always wielded by faithless and unskilful hands, was the sport of every party and every passion. The last of the grandsons of Francis I. had fallen by a stroke of the poniard. The factions which brought about St. Bartholomew's and the barricades had called in a foreign yoke. A great revolution seemed inevitable. But a man, during several years, had struggled against anarchy, with the energy, the ability, and the success, which characterize genius. This man, destined by Providence to rescue France from ruin, was Henry IV.

After the glory of conquering his kingdom, this great prince acquired that of restoring it to tranquillity. His fine qualities contributed to this, no less than his arms. Never, it may be said of him, was goodness so able. Under his moderate but firm government, the great returned to their duty, and entirely lost sight of those ambitious projects in which they had indulged during the civil troubles. The scaffold on which the unfortunate Maréchal de Biron perished, taught them that there were no longer in France, but a monarch and his subjects.

It was natural that the nation, tired of so many sufferings, should concern itself very little with its rights, when

the claiming them would have perhaps compromised the happiness it enjoyed. What liberty, in fact, could be worth the absolute power of Henry IV.! The prince, on his part, may have justly considered the effervescence yet too great for re-establishing the people in their ancient and lawful liberties. He had to apprehend, in convoking their deputies, lest his good intentions might be shackled, and not seconded. We see therefore, on neither side, any attempts made to return to the ancient constitutive principles of the monarchy. One would fain believe, however, that France, already so much indebted to Henry IV., would have received from him, had he escaped the blow of Ravallac, some political measures calculated to fix its institutions, and secure its future prosperity.

§ 40. *Conclusion.*

We are arrived at the conclusion of this summary. We have described the origin and developement, the application, and, more frequently, the *neglect* of the constitutive principles composing the ancient public law of the kingdom. The government destined to rule it to the period of the revolution is actually established; and a very few remarks will suffice for the history of two centuries, in so many other respects interesting.

The parliament, during the religious troubles, passed ordinances which placed it on a level with the states-general. In this it went beyond its powers; but it never entered the mind of any one to dispute them, because they saved the monarchy. Such was the famous decree of 1593, which this body opposed, with success, to the factious states of the league, for preventing the Spanish race ascending the French throne. The parliament afterwards did not fail to appeal to these acts, passed in times of disorder, and to deduce from them rights which fixed its political powers. About this period it was too that the

assembly adopted the system, so strenuously supported afterwards, that it was no other than the ancient *placita* or *parlamenta* of the monarchs; and that consequently it formed the real states-general of the nation. We have seen what ought to be thought of this supposition.

At the death of Henry IV., Mary de Medicis wished that her regency should appear confirmed by the national assent. But instead of assembling the states, she demanded a decree of parliament, which was only confirmative of the decree. So that it was in reality the parliament which conferred the regency. It was the policy of ministers constantly to evince the semblance of respect for the ancient constitutive forms, in respecting the authority of parliament; to invite the interference of this assembly, when such interference would facilitate their views; to elude it when opposed to them; so to act, in fine, that the right of consenting might never become that of discussing and refusing.

Opinion every day increased the violence of the struggle between the king and these judicial-bodies, which had originally sprung from his own palace, and it only terminated with the revolution which occasioned the ruin of both.

All that we have hitherto said throws new light on the history of these two centuries. Several acts of administration may be now estimated after certain rules, and one cannot but acknowledge that, generally speaking, every thing was done to accumulate the storms impending over France, and nothing to avert them. Let us cite, for example, but the exile of the parliaments, and their dissolution by the Chancellor Meaupou; an act, since the states-general were not immediately convoked, at once so criminal and impolitic.

The bold and sanguinary genius of Richelieu, the brilliant despotism and victories of Louis XIV., alike con-

tributed to banish even the recollection of the ancient influence of the great. Nothing more was wanting than to corrupt them, and this Louis XV. effected. In the reign of this prince, every thing was polluted and fell to decay. But while the first orders of the state were sinking into dependence and corruption, the third, through the progress of the sciences, arts, and a daring philosophy, were gradually rising into importance. A revolution was inevitable, and the virtues of Louis XVI. did but retard this event. It was at last found necessary to return to those principles of government which had so long lain neglected. The nation was convoked, and then commenced a revolution which covered our country with massacres, and shook all Europe to its foundations. Half a century before, and all this, perhaps, had been but a useful and tranquil reform!

CONSTITUTION OF FRANCE

(Unwritten)

BEFORE 1789.

THE constitution here presented to the reader is composed of articles commonly considered, during the last and preceding centuries, as constitutive in France, by the court, the parliament, and those writers whom we may esteem the luminaries of our public law.

We must observe, however, that although generally allowed, they for the most part only prevailed by usage, and had received no other sanction than that of time. Hence it is, that history has as often to mark the neglect as the application of them, and hence too a new motive

for appreciating those written charters in which rights and powers are clearly fixed and determined.

What we have here chiefly in view, is to collect in a few pages those elements of our constitution which, scattered over numerous volumes, few people are now willing or able to peruse. But this *unwritten constitution* becomes valuable on another account. All publicists will certainly agree that it is necessary to fill up the gaps perceptible in the constitutional charter of 1814, by recurring to the ancient constitutive principles of the monarchy. Several articles therefore, such as those which relate to the Salic law, and the regency, may be considered as yet in force, and still forming part of our constitution.

General Dispositions.*

Frenchmen are born and remain free.

They are under the protection of the law, and by it alone can be deprived of the exercise of their liberty, save the modifications hereafter determined.

The French form three orders; the clergy, nobility, and third estate.

Letters of naturalization granted a foreigner, entitle him to be reputed as a natural Frenchman.

Frenchmen who settle themselves for ever in a foreign country, without the king's permission, lose all right of citizenship in France.

Frenchmen who leave the kingdom with the king's permission, or in the retinue of the sons of France, do not lose their right of citizenship.

The Roman Catholic religion is the religion of the state. Every other is interdicted in the kingdom†.

* CHOPPIN, *Du Domaine*. BACQUET, *Du Droit d'Aubaine*. *Journal des Audiences*, t. i. l. 11. c. 18; l. viii. c. 15; t. ii. l. iii. c. 6. LEBRET, *De la Souveraineté*. LOISEL.

† Revocation of the Edict of Nantz.

No one can be constrained to celebrate the worship of the ruling religion, or unquieted on account of his belief, unless he publish opinions contrary to the faith or ceremonies established in the kingdom.

Justice emanates from the king; and in his name is administered throughout the kingdom.

Of the Fundamental Laws of the Kingdom.*

The fundamental laws of the kingdom are immutable, and, if we may use the expression, *annexed to the crown*. They form a reciprocal and eternal bond between the prince and his descendants on the one part, and subjects and their descendants on the other. Neither party can alone absolve itself from the engagement formed by these laws.

1st.—The kingdom of France is a monarchy, hereditary from male to male, and following the order of primogeniture.

2d.—In default of heir in line direct, the kingdom belongs to the next prince of the blood, to the exclusion of every male descendant of the daughters.

3d.—Natural children are excluded from the throne, even in default of legitimate princes of the royal family. In this case, the nation, or the states-general, which represent it, have alone the right of electing the new sovereign.

4th.—The kingdom of France cannot be divided. It

* See edicts of 1667, and of July, 1717. The President de Harley, in *les Œuvres de Davair*, Bed of Justice of 1586. LEGRAND, *Traité de la succ. à la Cour*. CHOPPIN, *Du Domaine*. LOISEL, *Opuscules*. DEL-HOMMEAU, *Max*. LEBRET, *Traité de la Souveraineté*. DUPUY, *Traité de la Maj. Traité des Droits de la Reine*, pp. 129, 402, 403, 414. *Max. du Droit Pub. Fran.* c. 4. DE REAL, *Science du Gouvernement*, tom. ii. POCQUET, *de Livonière*, l. i. tom. 1. sect. 1. *Des Offices*, lib. ii. c. 2. No. 30, et suiv.

devolves, whole and entire, on the head of the eldest of the royal family; particular laws fixing the appanage of the princes of the blood.

5th.—The domain and rights of the crown are inalienable. The prince cannot dismember his kingdom, or even bind it either for debt or in alliance, without the free and solemn consent of the nation.

6th.—On the day of his accession to the throne, every thing which the king possessed as property, is united to the crown, and becomes part of the domain thereof.

7th.—The King of France never dies. His successor is seized immediately, and of full right, of the royal authority.

The stipulations made by the different provinces, at the time of their re-union to the crown, form no part of the fundamental laws.

Of the King.*

The king is the chief of the monarchy. The supreme power resides in him; to him alone belongs the right of making war and peace, levying tributes, coining money, granting pardons and remissions, and appointing to the different employments.

The king's person is sacred and inviolable.

His majority is fixed at fourteen years commenced†.

All the authorities of the kingdom hold their power of the king only‡, and exercise it only in his name.

* See LEBRET, *Traité du Souverain*. DELHOMMEAU, *Max.*—POCQUET DE LIVONIERE, *Règles du Dr. Fr.* l. i. t. 1. s. 1. DE REAL, *La Science du Gouvernement*, c. vii. sect. 1. DUPUY, *Traité de la Maj. des Rois*. Edicts of 1374, and of July, 1717.

† Ordonn. of Charles V., executed by Charles IX., Louis XIII., Louis XIV., and Louis XV.

‡ Declar. of the Advoc. of the Parl. of Paris, on the sovereign authority of the King. DE REAL, *Science du Gouvernement*.

Of the Regency.*

A regency takes place: during the king's minority; during his absence from the territory; during his captivity; during all the times he labours under insanity, or is incapable from any other cause of administering the affairs of the kingdom. It ceases of full right with the causes which rendered the king incapable of governing the state in person.

The regency belongs to the nearest relation of the king, and to the queen-mother in preference to all others. Notwithstanding, any prince or princess of the royal family, and even a person not belonging to that family, may, in prejudice to the queen-mother, be appointed regent, if it be judged advantageous to the ward, or to the welfare of the state†.

It may be conferred on a single person, on several at the same time, or on a single person assisted by a council. Or the administration of the state may be intrusted to one person, and the education or guardianship of the prince to another‡.

The king appoints the regent by will, by letters patent, or even by a simple declaration. If the king has made no provision of this kind, the appointment of regent belongs to the states-general. And in their default, and in case of urgency, to the great officers of the crown, the council of state, or to the parliament§.

The regent exercises all the functions of royalty in the king's name. When a council of regency is attached to

* See ROBERT LUYT, *La Reg. des Reines*. BERTIER, *Disc. d'Ouv. au Parlem. de Toulouse*, 1649. DUPUY, *De la Majorité des Rois*. DU TILLET, *Des Régences*. PASQUIER, *Rech.* liv. 2. c. 18. BOUCHET, *Art. Regent. Harangue de phil. pot. sur l'Aut. des Etats Génér. aux Etats de 1484*.

† LEGENDRE, *Mœurs des Fr.* p. 113.

‡ *Idem.* § DUPUY, chap. 6.

him, he is obliged to conform himself to the votes of this council, as expressed by a majority of its members*.

Of the Royal Family†.

The eldest son of the king of France bears the name of Dauphin.

The king has no power to disinherit him, or to exclude him from the throne.

The younger children of the kings of France have only appanages revertible to the crown in default of line masculine. This appanage consists in useful domain. The king always preserves the right of sovereignty over lands conferred as appanage.

The princes of the blood are of age at fifteen years, and have admission, a seat and deliberative voice in the parliaments. They take precedence, even at the king's coronation, of all dukes and peers, although they themselves may not be in possession of peerages.

The legitimated princes, and their male descendants who possess peerages, have a deliberative voice in the courts of parliament at the age of twenty years, with a seat immediately after the princes of the blood, and before the peers, although their peerages should be of less ancient date.

The daughters of France have no appanage: they do not succeed to lands granted in appanage‡.

Peers§.

The peers of France are the first officers of the crown.

They are ecclesiastical or laical.

* Decree of the Parl. of Paris, 12th September, 1715.

† Vide Ordonnance of Blois, A.D. 1579. CHOPPIN, *Du Domaine*. Edicts of 1711, Art. 1 and 2, and of July 1717. POCQUET DE LIVONIERE, lib. 1. tit. 1. sect. 1. DUPUY, *Traité du Duché de Bourgogne*, at the end. LE GRAND, *Traité de la Succession à la Couronne*.

‡ DUPUY, however, shews that this rule is not without exceptions.

§ Vide Decrees of the parliament of Paris, 30 April 1643, and 21 Sept. 1557. Bed of Justice, 2 March 1336. Ord. of December 1365, 1366, and

Certain peerages may be held by women, when, in default of males, the act of creation permits it, or when originally created in favour of females. In both cases they devolve to daughters only on condition of their espousing a person agreeable to the king, and of obtaining letters patent in favour of the husband, who takes rank and precedence only from the day of his reception in the parliament.

The creation of new peers belongs to the king. Their number is unlimited.

To be admitted to the rank of peer, it is necessary to be at least twenty-five years of age, and to profess the faith and religion of the catholic, apostolic, and Roman church.

The letters creating a new peerage must be verified, all the chambers of the parliament assembled.

At his admission the peer takes an oath "to conduct himself as a wise and magnanimous duke and peer—to be faithful to the king, and to serve him in his highest and most potent affairs."

The dukes and peers take rank and place as to each other, from the day of their first admission into the parliament of Paris, after the letters of creation have been enregistered.

The peers have of right a deliberative voice in the great chambers of the parliament, and in the assembled chambers, whenever they think proper to attend.

They are present at beds of justice, and give their opinions before the presidents and counsellor-clerks.

The court of peers alone takes cognizance of causes which concern the peers' estate, the rights attached to their peerages, and the accusations brought against them.

In civil matters, the causes of peers, relating to the

of April 1453, art. 6. Edict of Sept. 1610, art. 7. Decree of the parliament against the peers, 1224. Speech of the Attorney-general, 25 May 1394, in the cause of the Duke of Orleans. Edict of May 1711 art. 3, 4, 5, 6. Decree of 1725 in favour of the Maréchal d'Estrée. CHOPPIN, liv. iii. tit. 7. *Journal des Audiences*, tom. v. liv. xii. ch. 13.

domain or patrimony of their peerages, must be carried before the parliament, even when they plead as a body.

In default of successor to a peerage, the king may invest with it a person to whom it would not otherwise devolve. In this case the peerage preserves the rank assigned to it by the original title of creation.

The males descended from a person in whose favour a ducal peerage was created, may repurchase it of the daughters who become proprietors of it.

The Clergy.*

The clergy form the first order of the state. They enjoy the *privilege of clerkship*, or right of carrying before the church judge the causes in which they are defendants.

The ecclesiastics are not amenable to the judges of the lords in the matter of offences, but to the church judge for common offences, and to the royal judge for privileged cases.

They are not subject to the *taille*, and are on a footing with the nobility as to several other exemptions.

Priests and other ecclesiastics cannot be imprisoned for debt, or in civil causes: they are liable to be judged, as well in the ecclesiastical as in the secular tribunals. They can discharge the functions of advocates both in secular and ecclesiastical tribunals.

Of the Nobility†.

Nobility is acquired, 1. by letters of nobility duly veri-

* Ordon. of 1667, tit. 33, art. 15. Declarations of 5 July 1696, and July, 1710.

† LOISEL, lib. 1. tit. reg. 9, 11, 13. *Des Offices*, lib. 1. c. 9, n. 18. *Des Orders*, c. 5. n. 88. BACQUET, *du Dr. d'Annobl.*, c. 18, 19, 20, 23. LA ROQUE, *Traité de la Noblesse*, c. 18, 22, 57, 63, 64, 99, 136. DU TILLET, *Ch. des Chevaliers*. D'ARGENTRE', *Avis sur le Part. des Nobles*, quest. 18 and 19. Ord. of Blois, art. 257, 258; of Orleans, art. 110, Edict on Duels, art. 15. Regulation of 1661, art. 139. Edict of Cremieu of 1536. Declar. of Compiègne, Feb. 1637.

fied ; 2. by holding during the requisite time an office which confers nobility ; 3. by letters of knighthood. It is hereditary. The possession of a fief does not ennoble.

A foreign nobleman is not permitted to enjoy the privileges of nobility in France, until he has obtained from the king letters recognising his title ; without prejudice nevertheless to such express stipulations in treaties between France and the country of such foreigner as may entitle him to the enjoyment of the said privileges.

The natural children of princes are nobles. Those of noblemen are commoners (roturiers), unless rendered legitimate by subsequent marriage.

The king alone can confer letters of nobility. The nobles enjoy certain privileges and prerogatives of honour. Their chief privileges consist :

1. In holding, as an order, the second rank in the state, *viz.*, in taking rank immediately after the clergy, and before the third estate.

2. In being alone qualified for admission into certain regular military and other orders, and into certain chapters, benefices, and offices, as well ecclesiastical as secular.

3. In personal exemption from the *taille**, and from all accessory impositions.

4. In being exempt from banalités†, corvées, and other kinds of servitude, when of a personal and not of a real nature.

5. In being naturally the only persons qualified for holding fiefs ; commoners doing this by dispensation only.

* The word *taille* properly signifies the notch or incision which the collectors, who were unable to write, made on pieces of wood when making an assessment or division of the tax, and it thence came to mean the tax itself. Of this there were two kinds, the *taille real* or land tax, and the *taille personal* or poll-tax. The latter for a day-labourer was fifteen sous per annum.

† Banalité was the right of a lord to compel his vassal to grind at his mill, bake at his oven, press his grapes at his wine-press, &c. For corvées, see article *Taille, Impost, Corvée*

6. In being exempt from the militia; though they are obliged to march when the king orders the ban and the arrière ban.

7. In not being subject, except in cases of necessity, to provide quarters for soldiers.

8. In having a right to carry their causes directly before the bailiffs and seneschals; their widows enjoying the same privilege, but both being subject to the jurisdiction of the lords.

9. In not being subject in any case, or for any crime whatever, to the jurisdiction of provosts or presidial judges, in the last resort.

10. In having a right to demand, in every state of the case, when their process is pending in the criminal court of the parliament, provided the votes have not commenced, to be tried in the presence of the great chamber assembled.

Nobility is forfeited by crime, or by an act of degradation; but letters of recapitulation may be granted in every case, except that of high treason.

Children born before their father's degradation, do not require letters of recapitulation to preserve their rank.

The woman noble in her own right, who marries a commoner, forfeits her rank. She recovers it after the death of her husband.

Communes *.

A commune is an association entered into by the inhabitants of a place, in virtue of which, they form altogether a body, have a right to meet and deliberate on their common affairs, to choose officers to govern them, to collect their common revenues, and to have a seal and common chest.

* In the sixteenth century the privileges of the communes were already considerably diminished, and their burdens increased. They continued insensibly to decline, until at last, they had lost nearly all their privileges, and had sunk into weakness and decay.

The communes are freed from all service and exactions to which copyholders are subject. They enjoy the particular rights which are guaranteed to them by their charters of creation; and are subject, each, to the burdens and duties enacted by the same charters.

Of the King's, or Great Council.*

The great council takes cognizance of several subjects, as well civil and criminal, as those which relate to benefices. Its jurisdiction extends over the whole kingdom.

It takes cognizance of the regulations of courts and offices; of all the gifts and brevets of the king; of the administration of his domains; of the affairs, as well of justice as police, in the king's household; and of the officers in the suite of the court.

It can also take cognizance of the affairs of individuals, either in pursuance of petitions presented to the king, and by him referred to the council, or with the consent of the parties.

The great council takes cognizance exclusively, 1. Of contrarieties and nullities of decrees; 2. Of the preservation of the jurisdiction of the presidial courts and provost marshals, by means of judiciary regulations; 3. Of suits concerning archbishopricks, bishopricks, and abbeys; 4. Of the execution of brevets granted by the king, for nominating to all the great benefices; of the indulto of the parliament; of brevets of joyous accession, and oath of fidelity; of the exercise of the right of litigation in Normandy; and, in general, of all brevets granted by the king for benefices; 5th, Of the rights of frank fiefs and new acquets, as well as of the attribution of affairs concerning the right of notaryship.

* Edicts of the 2d Aug. 1497, and 23d July 1498. Lett. Pat. of 1531 and 1537. Declar. of 7th Aug. 1548; 15th Sept. 1576. Edicts of 1690, of Jan. 1738, and 12th Nov. 1774.

The great council, moreover, is created for maintaining a uniformity of jurisprudence throughout the kingdom on certain subjects, such as usury, bankruptcy, the government and discipline of the great bodies which have a right of appeal to the council.

The great council can sometimes supply the place of the sovereign courts, for the trial of certain affairs which have been evoked by it*.

It is composed, 1. Of the chancellor or keeper of the seals, who are its natural chiefs and presidents; 2. Of a first president, appointed by the king; 3. Of five other hereditary presidents; 4. Of an unlimited number of counsellors of honour; 5. Of fifty-four counsellors, of whom two are, at the same time, grand reporters and correctors of letters under the seal; 6. Of two advocates-general, of an attorney-general, several substitutes to the attorney-general, and a register in chief.

All these officers enjoy numerous privileges, especially such as are enjoyed by the commensales of the king's household, and the officers of the supreme courts. Nobility is a consequence of their office.

The States-General†.

The states-general are composed of the deputies of the clergy, nobility, and third estate. They represent the nation, exercise power collectively, and in its name.

The convocation of the states belongs to the king alone, and is thus ordered. In pursuance of the king's lettres de cachet, the seneschals and bailiffs, each in his jurisdiction, hold three assemblies; one of the clergy, one of the nobility, and one of the third estate.

* It would be impossible to collect here all the powers of the great council. We have given such as appear to us to have more particularly constituted its essential character.

† Vide *Mém. de la Ligue*, t. v. p. 280. Dissertation on the Right of convoking the States, printed at the end of the *Max. du Dr. Pub. Fr.*

Each of these assemblies makes an election of deputies, who repair to the place appointed by the king for the general assembly.

1. The instructions of the deputies may be expressed or implied.

The chambers of the clergy, nobility, and third estate, assemble each separate from the other, and choose one or more presidents, one or more secretaries, and two or three assessors ; they also appoint a person to address the king.

The king sets forth, in the assembly of the three orders united, the business on which he has convoked them.

When each chamber has separately discussed the subject in question, an address is framed, for making remonstrances to the king, and for giving him such advice as the chamber may deem necessary to the welfare of the state. These addresses are presented to the king separately.

All the deputies of each chamber are divided into twelve general governments, of which the names and rank follow : 1. The Isle of France ; 2. Burgundy ; 3. Normandy ; 4. Guienne ; 5. Britany ; 6. Champagne ; 7. Languedoc ; 8. Picardy ; 9. Dauphiny ; 10. Provence ; 11. Lyonnais ; 12. Orleannais.

The subjects of discussion are decided in each chamber by a plurality of the votes of the governments ; one government having no more weight than another, although it may be composed of a greater number of deputies.

The subjects of discussion are carried in each government by a majority of the votes of the bailiwicks and seneschalships.

In Britany, Dauphiny, and Provence, the deputies are appointed in the assemblies of the whole province : in the rest of the kingdom, by the bailiwicks, seneschalships, and towns.

To the states belong, 1. The appointment of regent, when such appointment has not been made by the king ;

2. The election of a new sovereign, when the king dies without heirs ; 3. The election of regent, when several persons lay claim to that dignity ; 4. The election of the king, amongst several pretenders to the throne ; 5. The approbation or rejection of a declaration of offensive war ; 6. The cognizance of all projects of law, and resolutions, for the validity of which their concurrence is declared necessary by the laws or usages of the kingdom.

The states are convoked whenever the king thinks necessary. Nevertheless, there are cases in which the nation itself can convoke them, or rather, when the grandees of the kingdom, the princes and peers, may make this convocation, without encroaching upon the royal authority ; as, for instance, when the reigning family becomes extinct.

The Parliaments.*

The parliaments are bodies politic and courts of justice. As political bodies they have a right to make such remonstrances as may be necessary for the interest of the state and welfare of its subjects.

They have the deposit of the laws ; and all new laws must be freely verified and enrolled on their registers.

The parliament may refuse to enregister laws enacted by the prince ; and is at liberty to propose to him modifications in them.

The magistrates make oath to examine whether in the edicts and other laws presented to them, any thing be con-

* *Tres. des Haran.* Paris, 1668, part 2, p. 198. *Max. du Dr. Publ. Fr.* c. 5. P. GRANET, *Stil. Reg.* pp. 621, 622. R. GAGUIN, lib. iii. cap. ultim. BUDE', *Annot. in Pandect.* PASQUIER, *Rech.* liv. ii. cap. 4. LOISEAU, *Des Seign.* cap. iii. No. 11. COQUILLE, at the commencement of his *Inst. du Dr. Fr.* Harangue of Miron to Louis XIII., in the *Recueil des Etats of 1614*, by Rapin, p. 459. LAROCHE-FLAVIN, *Parl. de Fr.* tit. 1. part ii. page 117. *Mem. de Condé*, in 4to. tom. i. p. 27. Remonst. of the Parl. of Paris, 9th June 1581, of July 1718. TALON, *Speech at the Bed of Justice* of 1645.

tained contrary to the interests of the king, of the state, or to the fundamental laws of the kingdom*.

As courts of justice, the parliaments and sovereign courts have also the right of judging in the last resort the causes of individuals.

Court of Peers, Court of France, or King's Court†.

The court of peers is the first court of the kingdom. It is composed of the parliament of Paris, of the peers of France; and the king, or some person delegated by him, presides over it‡.

The court of peers cannot pronounce judgment on a peer's estate unless at least twelve of its members are present. In the absence of peers legally convoked, their places are filled by members of the parliament.

Of the Taille, Impost, and C  rv  e §.

No taille or impost can be levied without the consent of the states-general.

The clergy, nobility, officers of superior courts; those of the offices of finance, the secretaries and officers of the greater and lesser chanceries, charged with functions which confer nobility, alone enjoy the privilege of exemption from agricultural taille in the kingdom, conformably to the regulations fixing the extent of this privilege, and by conforming themselves, for the officers of the courts and those of the offices of finance, to the declaration of the 13th July, 1764.

The officers commensales, those of elections, and those among the officers of judicature or finance, who were exempt from taille, are maintained in the privilege of exemp-

* Remonst. of the Parl. of Paris, 26th July 1718.

† Edict of July 1644.

‡ Decree of the Court of Peers, A.D. 1224.

§ Edict of July 1766.

tion from personal taille, by conforming themselves to the declaration of 13th July 1764, and on condition that they take no land to farm, exercise no trade, and do no act derogatory to their privileges. The provosts, lieutenants and exempts of the companies of marshalsea enjoy exemption from personal taille in the place where their duty requires residence, so long as they permanently reside there, and in like manner, commit no act of degradation.

If the inhabitants of free towns who, in virtue of letters patent, enjoy exemption from taille, carry on any agricultural pursuits within the bounds of parishes subject to the taille; or if whether on the general account of the corporation, or individually, or by title of adjudication, they rent any lands within the said parishes, they shall be liable to the taille in these parishes.

The inhabitants of free towns, as well as the officers who enjoy exemption from personal taille, who shall cultivate their own lands in parishes subject to this tax, whether by their own hands, or by those of persons subject to it, shall be liable to the taille in the place where such cultivation is carried on.

The burgesses of Paris are not liable to the taille for their seats or country houses, or for the cultivation of fields enclosed by walls, ditches or hedges, immediately joining the said seats or country houses.

Personal corvées are days of labour which the lord has a right to exact from his copyholders, by furnishing them with food, without being obliged to pay them wages*.

* The corvées were among the most odious of the feudal duties which oppressed the French peasantry previous to the Revolution. And yet they do not appear so intolerable from their weight as from their character. The author of a pamphlet on the subject, published in 1789, who forcibly urges their abolition, estimates the average loss to the peasant who contributed his own labour only, at about three shillings, or six days at twelve sous per day. Where, in addition to his own services, the cultivator was obliged to furnish a cart and oxen, he calculates his loss at eleven times

The corvées vary, according to the title of the lords; the copyholders on some estates being obliged to supply bodily labour only—on others, carts drawn by oxen or horses.

The ecclesiastics and nobles, the officers of justice and finance, the commensales of the king's household, and all such persons as are exempt from taille, or taxed *ex officio* for this imposition, are exempt from the duty on salt.

The Gallican Church.*

Public excommunications, and all other ecclesiastical censures whatever, as well as the refusal of the sacraments, can neither be allowed nor employed against any one, except in conformity to the decrees and canons received in the kingdom, and duly sanctioned by the magistrates. And against violations of this rule, it shall be lawful to appeal to the civil courts.

The fundamental maxims on which the liberties of the Gallican church are founded, are as follows †:

1. In temporal affairs concerning the government, neither the pope nor the bishops have a right to use any censure against the king, his officers, or subaltern magistrates.

2. The pope has no other jurisdiction in France than that which the king thinks proper to grant him. His *nuncios*

that sum. But it must not be forgotten that this service was frequently exacted at the most valuable seasons of the year, at seed-time, the vintage and harvest. *Corvées Seigneuriales*, 8vo. Paris 1789.

* Declaration of the clergy of France, 19th March 1682. Decree of 24th May 1766. *Traité des Libertés de l'Eglise de France*, by Dr. SIGN. JACQ.—BAUMGARTEU, *Recueil des Actes, Titres et Mémoires concernant les Affaires du Clergé de France*. PITHOU, *Traité des Libertés de l'Eglise Gallicane*. *L'Esprit de Gerson*. The Abbé FLEURY, xii. *Discours sur l'Hist. Eccles.*

† The liberties of the Gallican church, upon the whole, consist, it may be said, in the right to defend itself against all the innovations which the Holy See has attempted to introduce into the church, with the view of establishing a new law to the prejudice of the common law founded on the ancient canons.

and *legati a latere* have no other functions than those of ambassadors, or employment than at the king's court. They cannot act in any judicial affair, in virtue of full powers from his holiness, until these powers have been ratified by the king, and sanctioned by the parliament.

3. The pope cannot evoke to him any other causes than those which have been left to his decision by the concordate and other royal regulations; and his decisions shall have no effect, unless in every way conformable to the laws acknowledged and expressly authorized in the kingdom.

4. No decrees, bulls, briefs, or other expeditions of the court of Rome, can be received and held valid in the kingdom, until their promulgation has been ordered by the king's letters-patent, enregistered by the courts of the kingdom.

5. The convocation and holding of councils, as well as the confirmation of their decrees, depend on the sovereign, and not on the consent of the pope.

6. The king has power to enact laws bearing on the behaviour of the clergy and the exercise of their authority, without any necessity for a council or the consent of the Holy See. He may refuse his sanction to ecclesiastical laws which have for their object the subjecting any one in his dominions, under any external penalties whatever, to the censure of the church.

7. The pope cannot, under any pretence whatever, levy any impost in the kingdom, or exact money from any one, beyond the contributions which are granted him by the concordate. The king has a right to levy impositions on the ecclesiastics of his kingdom without the pope's consent.

8. There cannot be formed any new establishment of colleges, regular houses, communities, seminaries, or brotherhoods, whether of orders already established, or of new religious orders, without letters-patent from the king. The institutes or rules of these orders are subject to the autho-

riety of the magistrates, who have also the power of modifying them. The king has equally a right to dissolve any religious order whatever*.

9. The king has the power of appointing to all the archbishopricks and bishopricks of France; to all deaneries, abbacies, prelacies, and other superior offices in convents; with the exception of such as for the more sure maintenance of austerity and monastic discipline, have been left to the appointment of the religious.

10. The king enjoys throughout the kingdom temporal and spiritual *regality*.

11. Every ecclesiastical jurisdiction is subordinate to the secular judge: When a sentence is pronounced by a church court, if there be proved any encroachment on the part of the ecclesiastical on the royal jurisdiction, contravention to the ordinances of the kingdom, to the ancient canons or liberties of the Gallican church, or to the decrees of regulation of the courts, the business is evoked by the parliaments, who appeal against the sentence of the ecclesiastical court.

12. The political magistrate has a general right of inspection over all that concerns external discipline, and the exercise of authority by the clergy. The courts have a right, even when there is no appeal or complaint, to examine all writings, works and actions whatever of the clergy, and to proceed against every thing which is found to encroach on the liberties of the church, or to be contrary to good order and public tranquillity.

13. All clergymen are exempt from every kind of external jurisdiction and impost. They cannot be compelled to appear out of the kingdom.

14. All ecclesiastics, without distinction, are at liberty to appeal to the temporal authority against the abuses of their superiors, without having to dread any kind of censure.

* Edicts of September, 1764 and 1768.

15. The kings of France, at their coronation, are obliged to take an oath to maintain the freedom and immunities of the Gallican church*.

Lettres de Cachet †.

Lettres de cachet emanate from the king: they must be signed by him, and countersigned by a secretary of state.

They contain, 1. The name and titles of the person to whom they are addressed; 2d. The order which the king gives him.

Lettres de cachet cannot be employed except in the two following cases: 1. For enjoining certain political bodies to assemble and deliberate on certain subjects; 2. For intimating to any one an order, or notice from the prince‡.

The magistrates ought to pay no regard to lettres-closes granted in the matter of justice; in which case the apposition of the king's great seal is necessary.

This restriction has effect only when the letters contain new regulations and not particular orders. A person imprisoned unjustly in virtue of a lettre de cachet, may prove the injustice done him, and obtain damages against the person who procured the letter.

Exile may be pronounced by the king, for reasons known to him alone.

An exiled person who leaves the place assigned to him in order to withdraw from the kingdom, is punished with confiscation of body and goods.

* We have thought it the more necessary to go somewhat into detail on this subject, since the rules here laid down still form the actual state of legislation relative to it.

† Ordinance of June 1316. Of Orleans, art. 91; of Blois, and of Moulins. Decree of the Parl, 3d Dec. 1551, reported in *Le Traité de la Police*, tom. i. l. 1. c. 2. p. 133, first col. Decrees of 9th June 1769, and 3d April 1770. *Max. du Dr. Fr.*, chap. 3.

‡ Lettres de cachet were most frequently issued for sending persons into exile, or for declaring them prisoners.

CONVOCATION OF THE STATES-GENERAL.

As ideas of liberty became more prevalent in France, the abuses of government became the more intolerable. On the other hand, the disorder which reigned in the finances compelled the government to have recourse to extraordinary measures. It was reduced to the alternative of using violence, or calling the nation to its aid. The exile of the parliaments, and the bed of justice of 6th August 1787, proving ineffectual, recourse was had to more reasonable measures. But the assemblies convoked by the crown, instead of confining themselves to the task of replenishing the treasury, which was the chief end the government had in view, carried their inquiries into other parts of the administration, and shewed a much stronger disposition to correct its vices than to contribute to its wants. These sentiments influenced the two assemblies of notables called together in 1787 and 1788, and broke out openly in the assembly of the states-general.

The attempts of Calonne and Neckar to ameliorate the state of the finances had proved fruitless; while the discussions about the mode of electing deputies to the states-general had also served to excite discontent and irritation. The king's council decided that the deputies should be at least a thousand in number, that the representation of each bailiwick should be in a proportion compounded of its population and contributions, and what was of most importance, that the deputies of the *third estate* should be equal in number to those of the two other orders together.

The preponderance of the third estate was soon apparent. The addresses of this body demanded a free constitution, required that order should be restored in the finances, and that the disbursements and receipts should be regulated by law. Their pretensions, generally speaking, were limited to the rights which form the basis of our present government, and were, perhaps, not so much exaggerated in them-

selves, as ill timed. The nobility and clergy renounced their pecuniary privileges.

On the 5th May 1788, took place the opening of the states-general. The speeches of the king, the keeper of the seals, and Neckar, evinced the good intentions of government, but failed in giving satisfaction to the third estate.

A division broke out in the assembly. It was disputed whether the states should vote by *head* or by *order*. The nobility and clergy adhered to the mode which assured them the superiority. The third estate resisted; and after a fruitless attempt to draw over the other two orders, proceeded to constitute themselves as a *national assembly*; a great many of the clergy joining their party.

This took place the 17th June. On the 23d, the king came to the assembly, declared the acts passed by it of no effect, and commanded the distinction of the three orders to subsist. He made some concessions: but there was still no promise of a constitution, no intention manifested of granting the states-general a portion of the legislative authority, of establishing the responsibility of ministers, or the freedom of the press. And at length the formal order to dissolve was given.

This order was resisted by the third estate. They continued their deliberations; and a majority of the clergy, with some members of the nobility, adopted the same sentiments. The king was reduced to the necessity of giving way, and consenting to the union of the three orders in one and the same assembly. The constituent assembly was then recognised. Its first decrees abolished tithes, the feudal system, annates, the dispensations and provisions of the court of Rome. All the privileges of order, whether of province, town, corporation, or of individuals, successively disappeared. The territory of the kingdom was divided anew. And at length the famous declaration of the rights of man was *decreed*, for serving as a preamble to the new constitution.

CONSTITUTION

DECREED BY THE CONSTITUENT ASSEMBLY,

3 SEPTEMBER, 1791.

Declaration of the Rights of Man and of a Citizen.

THE representatives of the French people, constituted as a national assembly, considering that ignorance, neglect, and contempt of the rights of man are the sole causes of public calamities, and the corruption of governments, have resolved to make known in a solemn declaration, the natural, inalienable, and sacred rights of man; to the end that this declaration, constantly present to all the members of the social body, may continually remind them of their rights and duties—to the end that the acts of the legislative power, and those of the executive power, capable of being at each instant compared with the object of every political institution, may be more respected, and that the claims of citizens, henceforward established on simple and incontestable principles, may always tend to the maintenance of the constitution, and the happiness of all.

In consequence, the national assembly, in the presence and under the auspices of the Supreme Being, acknowledges and declares the following rights of man and a citizen.

Art. 1. Men are born and remain free and equal in rights. The distinctions of society can only be founded on the public good.

2. The end of every political association is the preservation of the natural and imprescriptible rights of man. These rights are, liberty, property, security, and resistance to oppression.

3. The principle of all sovereignty resides essentially in the nation. No body, no individual, can exercise any authority which does not expressly emanate from it.

4. Liberty consists in being able to do every thing which does no injury to another. Thus the exercise of the natural rights of every man, has no limits but those which assure to other members of society, the enjoyment of the same rights. These limits can only be determined by law.

5. The law has the right of prohibiting those actions only which are injurious to society. What is not forbidden by the law cannot be prevented; and no one can be compelled to do what it does not ordain.

6. The law is the expression of the general will. Every citizen, either in person or by his representative, has a right to concur in its formation. It should be the same for all, whether it protects or punishes. All citizens being equal in the eye of the law, are equally admissible to all dignities, places and public employments, according to their capacity, and without any distinction except that of their virtues and talents.

7. No man can be accused, arrested or detained, except in the cases determined by the law, and according to the forms which it prescribes. Those who solicit, expedite, execute or cause to be executed arbitrary orders, should be punished; but every citizen summoned or apprehended in pursuance of the law, ought instantly to obey.

8. The law should establish those penalties only which are strictly and evidently necessary. And no one can be punished, except in virtue of a law passed and promulgated before the commission of the crime, and legally applied.

9. Every man being presumed innocent until he is found guilty; whenever it is deemed indispensable to arrest a citizen, every kind of severity beyond what is necessary for the security of his person ought to be strictly prohibited by law.

10. No one ought to be disquieted on account of his opinions, even those on religious subjects, provided the public order established by law, be not disturbed by their publicity.

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11. The free communication of thoughts and opinions is one of the most precious rights of man. Every citizen, therefore, is at liberty to speak, write and print freely, saving his liability to answer for the abuse of this liberty, in such cases as are determined by law.

12. The security of the rights of man and a citizen requires a public force: this force, therefore, is instituted for the advantage of all, and not for the particular use of those to whom it is intrusted.

13. A general contribution is indispensable for the maintenance of the public force, and for defraying the expenses of government. It ought to be distributed amongst all the citizens in proportion to their means.

14. Every citizen either in person or by his representative has a right to verify the necessity of the public contribution, of freely consenting to it, of attending to the use made of it, and of determining the quota, assessment, collection, and duration of it.

15. Society has a right to demand from every public agent an account of his administration.

16. Every society in which the guarantee of rights is not secured, neither the separation of powers determined, has no constitution.

17. Property being an inviolable and sacred right, no one can be deprived of it, unless when public necessity legally proved, evidently requires it, and on condition of a just and previous indemnity *.

* This declaration was made in August, 1789.

CONSTITUTION.

The national assembly, wishing to establish the French constitution on the principles which it has just recognised and proclaimed, abolishes for ever the institutions which are hurtful to liberty and equality of rights.

There no longer exists any order of nobility, any peerage, hereditary distinctions, distinctions of order, feudal regime, patrimonial justice, or any titles, denominations, or prerogatives which were thence derived, any order of knighthood, or any corporation or decoration for which proofs of nobility were required, or which supposed distinctions of birth, or any other superiority than that of the public functionaries in the exercise of their functions.

No public office is any longer saleable or hereditary.

There no longer exists, for any part of the nation, or any individual, any privilege or exception to the common right of all Frenchmen.

There is no longer any wardenship, corporation of professions, arts, or crafts.

The law no longer recognises any religious vows, or any other engagement contrary to natural rights and the constitution.

Title I.—*Fundamental Dispositions guaranteed by the Constitution.*

The constitution guarantees, as natural and civil rights :

1. That all citizens, without any distinction except that of virtue and capacity, be admissible to places and employments.
2. That all contributions be distributed among the citizens, in proportion to their ability.

3. That the same offences be punished with the same punishments, without any distinction of persons.

The constitution also guarantees to all citizens, as natural and civil rights ;

The liberty of going, remaining, departing, without being liable to arrest or detention, except according to the forms determined by the constitution ;

The liberty of speaking, writing, printing, and publishing their sentiments, without their writings being liable to any censure or inspection before their publication ; and of exercising the religious worship to which they are attached ;

The liberty of assembling peaceably and without arms, conformably to the laws of police.

Liberty of addressing to the constituted authorities petitions signed individually.

The legislative power cannot frame laws, tending to injure or obstruct the exercise of the natural and civil rights laid down in the present title, and guaranteed by the constitution ; but, as liberty consists only in the ability to do what is not hurtful to the rights of another or the public safety, the law can inflict punishment on actions which, attacking either public safety or the rights of others, might be prejudicial to society.

The constitution guarantees the inviolability of property, or a just and previous compensation for that, of which the public necessity legally proved might require the sacrifice.

The effects destined to defray the expenses of religious worship, and for all services of public utility, belong to the nation, and are at all times at its disposal.

The constitution guarantees the alienations which have already been, or which shall be hereafter made according to the forms established by law.

The citizens have a right to elect or choose the ministers of their religion.

There shall be created and organized a general establishment of public succours for bringing up deserted children, relieving the infirm poor, and furnishing labour to the poor in health, who shall not have been able to procure it.

There shall be created and organized a system of public instruction, common to all the citizens, gratuitous with regard to those parts of education indispensable for all men ; and of which the establishments shall be distributed gradually, and with reference to the division of the kingdom.

National festivals shall be instituted for preserving the memory of the French Revolution, for keeping up brotherly love amongst the citizens, for attaching them to the constitution, to their country, and the laws.

A code of civil laws common to the whole kingdom shall be framed.

Title II.—*On the Division of the Kingdom, and the State of Citizens.*

Art. 1. The kingdom is one and indivisible : its territory is divided into eighty-three departments, each department into districts, each district into cantons.

2. French citizens are those born in France, of a French father :

Those who, born in France of a foreign father, have fixed their residence in the kingdom :

Those who, born in a foreign country of a French father, have settled in France, and taken the civic oath :

Finally, those who, born in a foreign country and descended in any degree whatever from a Frenchman or Frenchwoman expatriated for the sake of religion, come to reside in France, and take the civic oath.

3. Those who, born out of the kingdom of foreign parents, are resident in France, become French citizens after five years' continued domicile in the kingdom, if they have acquired there property in immoveables, or espoused

a French woman, or formed an agricultural or commercial establishment, and if they have taken the civic oath.

4. The legislative authority shall have the power of conferring, for grave considerations, an act of naturalization on a foreigner, on no other condition than that of fixing his abode in France, and taking the civic oath.

5. The civic oath is: "*I swear to be faithful to the nation, the law, and the king, and to maintain to the utmost of my power the constitution of the kingdom decreed by the national constituent assembly in the years 1789, 1790, and 1791.*"

6. The rank of French citizen is lost; 1st. by naturalization in a foreign country: 2d. by condemnation to penalties importing civic degradation, so long as the condemned person is not reinstated: 3d. by a sentence of contumacy, so long as such sentence remains in force; 4th. by affiliation to any order of foreign knighthood, or to any foreign corporation which supposes either proofs of nobility or distinctions of birth, or which requires religious vows.

7. The law considers marriage as a civil contract only. The legislative power shall establish an uniform mode, applicable to all persons without distinction, by which births, marriages, and deaths shall be verified; and it shall appoint the public officers who are to receive and preserve the records of them.

8. The French citizens, considered with reference to the local relations which spring from their union in towns, and in certain arrondissements of territory, form *communes*.

The legislative authority shall determine the extent of the arrondissement of each commune.

9. The citizens composing each commune have a right to elect for a time, according to the forms determined by law, those amongst them who, under the title of municipal officers, are charged with conducting the particular affairs of the commune.

Certain functions relating to the general interest of the state may be delegated to the municipal officers.

10. The rules which the municipal officers shall be obliged to follow in the exercise, as well of their municipal functions, as of those delegated to them for the general interest, shall be determined by law.

Title III.—*Of the Public Powers.*

Art. 1. The sovereignty is one, indivisible, inalienable, and imprescriptible: It belongs to the nation: No portion of the people, no individual can arrogate to himself the exercise of it.

2. The nation, from which alone all powers emanate, cannot exercise them except by delegation.

The French constitution is representative: the representatives are the legislative body and the king.

3. The legislative power is delegated to a national assembly composed of representatives holding their seats for a time, freely elected by the people, to be exercised by the said assembly with the sanction of the king, in the manner which shall be hereafter determined.

4. The government is monarchical: the executive power is delegated to the king, to be exercised under his authority, by ministers and other responsible agents, in the manner which shall be hereafter determined.

5. The judicial power is delegated to judges elected for a time by the people.

CHAPTER I.—*The National Legislative Assembly.*

Art. 1. The national assembly forming the legislative body, is permanent, and is composed of one chamber only.

2. It shall be formed, every two years, by new elections. Every period of two years shall form a legislature.

3. The dispositions of the preceding article shall not

take effect with regard to the next legislative body, of which the powers shall cease the last day of April 1793.

4. The renewal of the legislative body shall take place of full right.

5. The legislative body cannot be dissolved by the king.

§ 1. *Number of Representatives. Basis of Representation.*

Art. 1. The number of representatives to the legislative body is seven hundred and forty-five, on account of the eighty-three departments composing the kingdom, and independently of those which might be granted to the colonies.

2. The representatives are distributed amongst the eighty-three departments in the three proportions of territory, population, and direct contribution.

3. Of the seven hundred and forty-five representatives, two hundred and forty-seven are attached to the territory.

Each department, with the exception of that of Paris, appoints three ; the department of Paris one only.

4. Two hundred and forty-nine representatives are assigned to the population.

The whole mass of the active population of the kingdom is divided into two hundred and forty-nine parts ; and each department appoints as many deputies as it contains parts of population.

5. Two hundred and forty-nine representatives are attached to the direct contribution.

The sum total of the direct contribution of the kingdom is also divided into two hundred and forty-nine parts ; and each department appoints as many deputies as it pays parts of contribution.

§ 2. *Primary Assemblies. Nomination of Electors.*

Art. 1. In order to form the national legislative assembly, the active citizens in towns and cantons shall meet every two years in primary assemblies.

The primary assemblies shall meet of full right, the second Sunday in March, unless convoked earlier by the public functionaries appointed by law.

2. To constitute an *active citizen*, it is necessary to be a Frenchman by birth or naturalization ; to have attained the full age of twenty-five years ; to have been settled in the town or canton the time fixed by law ; to pay in some place within the kingdom, a direct contribution equal at least to the value of three days' labour, and to have the receipt for such contribution forthcoming ; not to be in a state of domesticity, that is, of a servant at wages ; to be enrolled in the municipality of his domicil on the list of national guards ; and to have taken the civic oath.

3. Every six years the legislative body shall fix the *minimum* and *maximum* of the value of a day's labour ; and the administrators of departments shall from thence fix the local value for each district.

4. No person can exercise the rights of active citizen in more than one place, or cause himself to be represented by another.

5. The following are excluded from the rights of active citizens : Those who are in a state of accusation ; those who after having been declared in a state of bankruptcy or insolvency, proved by authentic documents, do not produce a general acquittance from their creditors.

6. The primary assemblies appoint electors in proportion to the number of active citizens domiciliated in the town or canton ; one elector being chosen for a hundred active citizens, present or not in the assembly ; two for one hundred and fifty-one to two hundred ; and so on.

7. No one can be chosen an elector who does not add to the qualifications necessary for constituting an active citizen, the conditions following : In towns of above six thousand souls, that of having property or the usufruct of property, valued on the rolls of contribution at a rent equal to the local value of 200 days' labour, or of being tenant (*loca-*

taire) of a habitation, rated on the same lists at a rent equal to the value of 150 days' labour.

In towns under six thousand souls, that of having property or the usufruct of property, rated on the lists of contribution at a revenue equal to the local value of 150 days' labour, or of being tenant (*locataire*) of a habitation rated on the same lists, at a revenue equal to the value of 100 days' labour.

And in the country, that of having property or the usufruct of property, rated on the lists of contribution at a revenue equal to the local value of 150 days' labour, or of being farmer or metayer* of property rated on the same lists, at the value of 400 days' labour.

With respect to those who have the property or usufruct of one part, and are renters, farmers or metayers of another, their qualifications under these different heads shall be estimated in the gross, to the proportion necessary for establishing their eligibility.

§ 3. *Electoral Assemblies. Nomination of Representatives.*

Art. 1. The electors appointed in each department shall meet together for electing the number of representatives assigned to their department, and a number of supplementaries equal to one-third that of the representatives.

The electoral assemblies shall form of full right the last Sunday of March, unless convoked earlier by the public functionaries appointed by law.

2. The representatives and supplementaries shall be elected by an absolute majority of votes, and be chosen from among the active citizens of the department only.

3. All active citizens, whatever may be their condition, profession, or contribution, are qualified for being elected representatives of the nation.

4. Excepting nevertheless, the ministers and other agents

* A *metayer* is a cultivator who pays for the hire of his farm, a certain portion of the produce and stock which he raises on it.

of the executive power, holding their offices at will, the commissioners of the national treasury, the assessors and receivers of direct contributions, the overseers for the assessment and administration of indirect contributions and the national domains, and those who under any denomination whatever, are attached to employments in the military and civil household of the king.

Excepting also, administrators, sub-administrators, municipal officers, and the commanders of the national guards.

5. The exercise of judicial functions is incompatible with that of representative of the nation, during the whole duration of the legislature. Judges shall be replaced by their supplementaries ; and the king shall provide by brevets of commission for replacing his commissioners in the tribunals.

6. The members of the legislative body shall be eligible to the following legislature, but after that, the interval of one legislature must elapse before they can be again eligible.

7. The representatives nominated in the departments are not representatives of a particular department, but of the nation entire. No instructions can be given them.

§ 4. *Of the Holding and Government of Primary and Electoral Assemblies.*

Art. 1. The functions of the primary and electoral assemblies are limited to election. They shall separate immediately after the elections are completed, and cannot form anew until convoked, unless in the cases laid down in section ii. art. 1, and section iii. art. 1, above.

2. No active citizen can enter or give his vote in an assembly, if armed.

3. An armed force cannot be introduced into the interior without the express wish of the assembly, unless violence is committed there. In this case, an order of the president is sufficient for calling in the public force.

4. Every two years, in every district, there shall be drawn up lists by cantons of the active citizens; and the list of each canton shall be published and posted up therein two months before the period fixed for the meeting of the primary assembly.

The protests which may be made, either against the rights of citizens inscribed on the list, or on the part of such as conceive themselves to be unjustly omitted, shall be carried to the tribunals, to be there summarily decided.

This list shall serve as a rule for the admission of citizens into the next primary assembly, as to every thing that shall not have been rectified by judgments delivered before the meeting of the assembly.

5. The electoral assemblies have the right of verifying the qualifications and powers of those who present themselves; their decisions being carried into provisional execution, with a reserve for the sentence of the legislative body, when it verifies the powers of its deputies.

6. In no case, and under no pretext, can the king, or any agent appointed by him, take cognizance of questions relating to the regularity of convocations, to the holding of assemblies, to the form of elections, or to the political rights of citizens; without prejudice nevertheless to the functions of the king's commissioners in such cases as relating to questions concerning the political rights of citizens, are ordered by law to be brought before the tribunals.

§ 5. *Meeting of the Representatives as a National Legislative Assembly.*

Art. 1. The representatives shall meet, the first Monday in May, in the place where the last legislature held its sessions.

2. They form themselves provisionally as an assembly, under the presidency of the senior in age, for verifying the powers of the representatives present.

3. When they amount to the number of three hundred and seventy-three members duly verified, they constitute themselves under the title of *National Legislative Assembly*. This assembly shall appoint a president, vice-president, and secretaries, and enter upon the exercise of its functions.

4. During all the month of May, if the representatives present fall short of three hundred and seventy-three, the assembly is not competent to any legislative act.

It has power to pass a decree, enjoining absent members to appear and enter upon the exercise of their functions within fifteen days at farthest, and this under the penalty of 3000 livres, unless such an excuse be offered as shall be judged legitimate by the assembly.

5. On the last day of May, whatever be the number of members present, they shall constitute themselves a national legislative assembly.

6. The representatives shall pronounce all together, in the name of the French people, the oath, *to live free or die*.

They shall then take individually, the oath *to maintain to the utmost of their power, the constitution of the kingdom, decreed by the national constituent assembly in the years 1789, 1790, and 1791; and neither to propose nor consent to any thing which might tend to injure it; and to be in all things true to the nation, to the law, and the king*.

7. The representatives of the nation are inviolable; they cannot at any time be called to an account, be accused or judged, for what they may have said, written or done in the discharge of their functions as representatives.

8. They are liable, for a criminal action, to be apprehended in the fact, or in virtue of an order of arrest; but notice of such arrest must be given without delay to the legislative body, and the prosecution cannot be carried on without a resolution of the assembly to that effect.

CHAPTER II.—*The Regal Dignity, the Regency, and the King.*§ 1. *The Regal Dignity and the King.*

Art. 1. The regal dignity is indivisible, and delegated to the reigning family, in hereditary descent from male to male, in the order of primogeniture, to the perpetual exclusion of women and their posterity.

(Nothing is pre-determined on the effect of renunciations in the family now on the throne.)

2. The king's person is inviolable and sacred: his sole title is, *King of the French*.

3. No authority in France is superior to that of the law. The king reigns by it alone, and in the name of the law only can exact obedience.

4. The king, on his accession to the throne, or when he attains his majority, shall take to the nation, in presence of the legislative body, an oath *to be true to the nation and the law, to employ all the power delegated to him, in maintaining the constitution decreed by the national constituent assembly in the years 1789, 1790 and 1791, and to make the laws executed.*

Should the legislative body not be in session at the time, the king shall publish a proclamation, containing this oath, with the promise of repeating it as soon as that assembly meets.

5. If one month after the invitation of the legislative body, the king shall not have taken this oath, or if, having taken it, he retracts, he shall be deemed to have abdicated the throne.

6. If the king should place himself at the head of an army and direct it against the nation, or if he should not discountenance by a formal act, such an enterprise when undertaken in his name, he shall be deemed to have abdicated the throne.

7. If the king, having left the kingdom, should not return when invited so to do by the legislative body, and within the period fixed by proclamation, (which period shall not be less than two months,) he shall be deemed to have abdicated the throne.

The time allowed for his return shall count from the day in which the proclamation of the legislative body is published in the place of its session: and the ministers shall be obliged, on their responsibility, to perform all the acts of executive power, of which the exercise shall be suspended in the hands of the absent king.

8. After abdication, whether express or legal, the king shall rank in the class of citizens, and like them be liable to be accused or judged, for actions subsequent to his abdication.

9. The private property which the king possesses at his accession to the throne is for ever united to the national domains. He has the disposal of that which he acquires on his own private account; but if he does not dispose of it, it is at the end of his reign, in like manner annexed to the national domain.

10. The nation provides for the splendour of the throne by a civil list, of which the legislative body at every new reign fixes the amount for the whole duration of such reign.

11. The king shall appoint an administrator of the civil list, who shall institute civil suits in the name of the king, and against whom all actions for debt due by the civil list shall be directed, and judgments given. The sentences obtained by the creditors of the civil list shall be executable against the administrator, personally, and his property.

12. The king, independently of the guard of honour furnished him by the citizens, national guards of the place of his residence, shall have a guard paid from the funds of the civil list. It cannot exceed 1200 infantry, and 600 cavalry.

The ranks and rules of promotion shall be the same in the guard as in the troops of the line ; but those who compose it shall go through all the ranks exclusively in their own corps, and cannot obtain any in the regular army.

The king cannot select men for the formation of his guard, except from among such as are actually on service in the troops of the line, or from among citizens who for a year past have been on service as national guards, provided also they reside in the kingdom and have previously taken the civic oath.

The king's guard shall not be subject to order or requisition for any public service.

§ 2. *Of the Regency.*

Art. 1. The king is a minor until he has attained the full age of eighteen years ; and during his minority, a regent of the kingdom discharges his functions.

2. The regency belongs to the king's relation, next in degree according to the order of succession to the throne, and who has attained the full age of twenty-five years ; that is, provided he be a Frenchman and denizen, that he be not presumptive heir to another crown, and that he has previously taken the civic oath.

Women are excluded from the regency.

3. If the minor king has no relation possessing the qualifications above named, the regent of the kingdom shall be elected after the following manner.

4. The legislative body cannot elect the regent.

5. The electors of each district shall meet in the chief place of the district, in pursuance of a proclamation to be made in the first week of the new reign by the legislative body, if in session, and if separated, by the minister of justice, who shall be obliged to make the said proclamation the same week.

6. The electors in each district shall appoint, by indi-

vidual scrutiny and the absolute majority of suffrages, a citizen eligible, and settled in the district, to whom by the procès-verbal of election they shall give an especial order limited to the single duty of choosing the citizen whom, in his soul and conscience, he shall judge most worthy of being regent of the kingdom.

7. The citizen agents thus appointed in the districts, shall assemble in the town where the legislative body sits, at the latest on the fortieth day from that of the young king's accession to the throne: they shall there form an electoral assembly, and proceed to the appointment of regent.

8. The election of regent shall be made by individual scrutiny and by the absolute majority of suffrages.

9. The powers of the electoral assembly are limited to the election of regent. It shall separate when the election is made; and any other act that it might undertake is declared unconstitutional and of no effect.

10. The electoral assembly shall present through its president the procès-verbal of the election to the legislative body; and this body, having verified the regularity of the election, shall make it known throughout the kingdom by proclamation.

11. The regent, until the king's majority, exercises all the functions of royalty, and is not personally responsible for the acts of his administration.

12. The regent cannot enter upon the functions of his office until he has taken to the nation, in presence of the legislative body, an oath *to be true to the nation, to the law and the king, to employ all the power delegated to the king, and of which the exercise is intrusted to him during the king's minority, in maintaining the constitution decreed by the national constituent assembly in the years 1789, 1790 and 1791; and to make the laws executed.* Should the legislative body not be in session at the time, the regent shall

publish a proclamation containing this oath, with the promise of repeating it as soon as the legislative body meets.

13. As long as the regent has not entered on the exercise of his functions, the sanction of the laws remains suspended: the ministers, on their responsibility, continuing to perform all the acts of executive power.

14. As soon as the regent has taken the oath, the legislative body shall determine his salary: this cannot be changed during the continuance of the regency.

15. If, in consequence of the non-age of the relation called to the regency, this office has devolved on a more distant relation, or has been conferred by election, the regent who has entered on its duties shall continue to discharge them until the king's majority.

16. The regency of the kingdom does not confer any right over the person of the minor king.

17. The guardianship of the young king shall be intrusted to his mother: if he has no mother, or if she be remarried at the time of her son's accession to the throne, or remarries during his minority, the guardianship shall be settled by the legislative body.

The regent, his descendants, and women, are excluded from the guardianship of the minor king.

18. In case of the king's mental incapacity, notoriously acknowledged, legally proved, and declared by the legislative body after three deliberations taken in succession from month to month, a regency is declared necessary during the continuance of such mental incapacity.

§ 3. *Of the King's Family.*

Art. 1. The presumptive heir shall bear the name of prince royal.

He cannot leave the kingdom without a decree of the legislative body, and the king's consent.

If he is absent, and if, after having attained the age of

eighteen years, he does not return to France when required by a proclamation of the legislative body, he shall be deemed to have abdicated his right of succession to the throne.

2. If the presumptive heir be a minor, the nearest relation of the requisite age, liable to be called to the regency, is obliged to reside in the kingdom.

In the event of his being absent, should he not return on the requisition of the legislative body, he shall be deemed to have abdicated his right to the regency.

3. If the mother of the minor king intrusted with his guardianship, or the guardian elect, leave the kingdom, they forfeit their trust.

Should the mother of the presumptive minor heir leave the kingdom, she cannot, even after her return, have the guardianship of her son, who still a minor, has succeeded to the throne, except in pursuance of a decree of the legislative body.

4. A law shall be enacted for regulating the education of the minor king, and that of the presumptive minor heir.

5. The members of the king's family liable to be called to the eventual succession to the throne, enjoy the rights of active citizens, but are not eligible to any places, employments or functions in the nomination of the people.

With the exception of departments in the ministry, they are eligible to employments and places in the king's nomination: notwithstanding, they cannot command any land or naval armament, or discharge the functions of ambassador, unless with the consent of the legislative body, granted on the king's proposition.

6. The members of the royal family liable to be called to the eventual succession to the throne, add the denomination of *French prince* to the name given them in the civil act verifying their birth; and this name shall be neither patronymick, nor composed of any qualifications abolished by the present constitution. The denomination of *prince*

cannot be given to any other individual, and shall import no privilege or exception to the common right of all Frenchmen.

7. The instruments by which the births, marriages and deaths of the French princes are legally verified, shall be presented to the legislative body, which shall order their deposit in its archives.

8. There shall not be granted to a member of the king's family any real appanage (in land). The king's younger sons, on attaining the full age of twenty-five years, or at their marriage, shall receive an annuity. This shall be fixed by the legislative body, and terminate on the extinction of their masculine posterity.

§ 4. *Of Ministers.*

Art. 1. The choice and dismissal of ministers belong to the king alone.

2. The members of the present national assembly and following legislatures, the members of the tribunal of cassation, and those who serve in the high jury, cannot be promoted to the ministry; neither can they receive any places, gifts, pensions, maintenance or commission from the executive power or the agents thereof during the continuance of their functions, or for two years after the expiration of such functions. The same rule shall hold with regard to those who are only inscribed on the list of the high jury, during the whole time they remain so inscribed.

3. No one can enter on any employment, whether in the ministerial offices or in those for the administration and management of the public revenues, or in general on any employment in the nomination of the executive power, without taking the civic oath, or proving that he has taken it.

4. No order of the king can be executed unless it is

signed by him, and countersigned by the minister or chief of the department.

5. The ministers are responsible for all offences committed by them against the national safety and the constitution; for every attempt on property and individual liberty; and for the dissipation of money destined to defray the expenses of their department.

6. In no case can the king's order, whether verbal or written, shelter a minister from his responsibility.

7. Every year at the opening of its session, the ministers shall present to the legislative body an account of the expenses attending their department, render an account of the money destined to defray the said expenses, and point out the abuses which may have crept into the different parts of the government.

8. No minister in place, or out of place, can be criminally prosecuted for an act of his administration without a decree of the legislative body.

CHAPTER III.—*On the Exercise of the Legislative Power.*

§ 1. *Powers and Functions of the National Legislative Assembly.*

Art. 1. The constitution exclusively delegates to the legislative body the powers and functions hereafter mentioned :

1. That of proposing and decreeing laws. The king can only invite the legislative body to take a subject into consideration :

2. Of fixing the public expenses :

3. Of levying public contributions ; of determining the nature, quota, duration and mode of collecting them :

4. Of distributing the direct contribution amongst the departments of the kingdom ; of superintending the em-

ployment of all the public revenues, and causing an account to be given of them :

5. Of decreeing the creation or suppression of public offices :

6. Of determining the standard, weight, impression, and denomination of coins :

7. Of permitting or forbidding the introduction of foreign troops into the French territory, and of foreign naval forces into the ports of the kingdom :

8. Of resolving annually, after the king's proposition, on the number of men and vessels of which the land and naval armaments shall be composed ; on the pay and number of individuals of each rank ; on the rules of admission and promotion, the forms of enrolling and discharge, the formation of ships' crews ; on the admission of foreign land or naval forces into the service of France, and on the pensions granted to troops on being disbanded :

9. Of determining the administration and ordering the alienation of the national domains :

10. Of prosecuting before the national high court, on their responsibility, the ministers and principal agents of the executive power ; of accusing and prosecuting before the same court those who shall be arraigned of attempt and conspiracy against the general safety of the state, or the constitution :

11. Of framing laws to be observed in granting marks of honour and decorations (purely personal) on those who have rendered services to the state.

12. The legislative body has alone the right of decreeing public honours to the memory of great men.

Art. 2. War cannot be declared except in pursuance of a decree of the legislative body, passed on a formal and necessary proposition from the king, and by him sanctioned.

When the state is threatened with hostilities or they have actually commenced, or when it is necessary to sup-

port an ally or defend a right by force of arms, the king shall notify this without delay to the legislative body and make known the causes thereof.

If the legislative body be not in session, the king shall immediately convoke it.

If the legislative body decide that war ought not to be made, the king shall immediately take measures for terminating or preventing hostilities, the minister being responsible for delays.

If the legislative body find that the hostilities commenced are a culpable aggression on the part of the ministers, or any other agent of executive power, the author of such aggression shall be criminally prosecuted.

The legislative body can require the king to negotiate peace at any period of the war, and the king is obliged to yield to this requisition.

As soon as the war terminates, the legislative body shall determine the period within which the troops raised above the peace establishment are to be dismissed, and the army reduced to its ordinary level.

3. The ratification of treaties of peace, alliance and commerce, belongs to the legislative body, and no treaty shall take effect except in pursuance of this ratification.

4. The legislative body has a right to determine the place of its sessions, of continuing them as long as it thinks necessary, and of adjourning. At the commencement of every reign, if not in session, it shall be obliged to assemble without delay.

It has the right of police in the place of its sessions, and to such an extent around, as it thinks proper to determine upon.

It has the right of discipline over its members; but can pronounce no heavier punishment than censure, arrest for eight days, or imprisonment for three days.

For the security of the assembly, and for the mainte-

nance of the respect which is its due, it has the right of disposing of the forces which, with its consent, are stationed in the town where its sessions are held.

5. The executive power cannot march or halt any body of troops of the line within the distance of thirty thousand toises (twelve leagues) of the legislative body, unless required or empowered by it so to do.

§ 2. *Holding of Sessions and Form of Deliberating.*

Art. 1. The deliberations of the legislative body shall be public, and the minutes of its sittings printed.

2. The legislative body, however, shall have the power on every occasion of resolving itself into a *general committee*. Fifty members shall have the right of demanding it. While it lasts, strangers shall retire, the president's chair be vacant, and order maintained by the vice-president.

3. No legislative act can be deliberated upon and decreed except in the form following:

4. Every project of decree must be read three several times, and the interval between each reading cannot be less than eight days.

5. The discussion opens after each reading; nevertheless, after the first or second reading the legislative body may decide that there is room for adjournment, or that there is no room to deliberate. In the latter case, the project of decree may be brought forward again the same session.

Every project of decree must be printed and distributed before the second reading.

6. After the third reading, the president shall be bound to propose to their deliberation, and the legislative body shall decide whether it is in a state to pass a definitive decree, or would rather choose to postpone the decision, in order to collect more information.

7. The legislative body cannot deliberate unless the meet-

ing is composed of at least two hundred members,—and no decree can be passed except by an absolute majority of suffrages.

8. Every project of law brought forward for discussion which shall be thrown out after the third reading, cannot be again presented during the same session.

9. The preamble of every definitive decree shall express,
1. The dates of the sittings in which the three readings of the bill took place : 2. The decree by which it was resolved, after the third reading, to decide definitively.

10. The king shall refuse his sanction to decrees of which the preamble does not attest the observance of the above forms : and should any such decree be sanctioned, the ministers can neither affix the seal to them, nor promulgate them ; and their responsibility on this head shall continue six years.

11. Such decrees as are acknowledged and declared urgent by a previous resolution of the legislative body, are excepted from the above regulations ; but they may be modified or repealed in course of the same session.

The decree by which the subject is declared urgent, shall declare the causes of this urgency, and mention shall be made of this previous decree in the preamble to the definitive decree.

§ 3. *On the Royal Sanction.*

Art. 1. The decrees of the legislative body are presented to the king, who may refuse his consent to them.

2. When the king refuses his consent, this refusal is only of a suspensive nature.

Should the two legislatures next following that which presented the decree successively re-present the same decree in the same terms, the king shall be deemed to have given his sanction.

3. The king's assent is expressed on every decree by the

formula, under his signature, *The king consents, and will cause it to be executed.* The suspensive refusal is thus expressed: *The king will examine.*

4. The king is bound to declare his consent or refusal on every decree within two months from its presentation.

5. A decree to which the king refuses his assent, cannot be again presented to him by the same legislature.

6. Decrees sanctioned by the king, as well as those presented to him by three successive legislatures, have the force of law, and bear the name and title of *laws*.

7. The following notwithstanding, shall be carried into execution as laws without being subject to the sanction: acts of the legislative body relating to its constitution as a deliberating assembly; those which concern its internal police, and that which it exercises in the exterior circuit it shall have determined upon; the verification of the powers of its members present; injunctions to absent members; the convocation of primary assemblies delayed; the exercise of the constitutional police over administrators and municipal officers; questions as well of eligibility, as of the validity of elections.

Acts relating to the responsibility of ministers, and decrees declaring grounds of prosecution to exist, are also exempt from the sanction.

8. Decrees of the legislative body concerning the establishment, promulgation and collection of public contributions, bear the name and title of laws. They shall be promulgated and carried into execution without being subject to the sanction; such, however, excepted, as contain dispositions which would establish other penalties than fines and pecuniary constraints.

These decrees cannot be passed unless with the formalities prescribed by articles 4, 5, 6, 7, 8, and 9, of section 2 of the present chapter; nor can the legislative body insert in such decrees any dispositions foreign to their object.

§ 4. *Relations of the Legislative Body with the King.*

Art. 1. When the legislative body is definitively constituted, it sends a deputation to the king to acquaint him therewith. The king may every year open the session, and propose the subjects which he thinks ought to be taken into consideration in the course of it, but this formality is not to be considered as necessary to the activity of the legislative body.

2. When the legislative body wishes to adjourn for more than fifteen days, it is bound to advise the king thereof by a deputation, at least eight days before.

3. At least eight days before the end of every session, the legislative body sends the king a deputation, to announce the day on which it proposes to terminate its sittings. The king may close the session in person.

4. If the king finds it essential to the welfare of the state that the session be continued, or the adjournment not take place, or that it take place for a less length of time, he may send a message to this effect, on which the legislative body is bound to deliberate.

5. The king shall convoke the legislative body in the interval of its sessions, whenever the interest of the state shall appear to him to require it, as well as in the cases which may have been foreseen and resolved upon by the legislative body before its adjournment.

6. Whenever the king comes to the legislative body, he shall be received and conducted back by a deputation: he cannot be accompanied into the interior of the hall, except by the prince royal and the ministers.

7. In no case, can the president form part of a deputation.

8. The legislative body shall cease to be a deliberating body while the king is present.

9. The acts of the king's correspondence with the legislative body shall be always countersigned by a minister.

10. The king's ministers shall have admission and a place assigned them in the national legislative assembly: they shall be heard when on subjects relating to their administration they demand a hearing, or when required to give information. They shall also be heard on subjects foreign to their administration, when the national assembly grants them permission to speak.

CHAPTER IV.—*On the Exercise of the Executive Power.*

Art. 1. The supreme executive power resides exclusively in the hands of the king.

The king is supreme chief of the general administration of the kingdom: the care of watching over the maintenance of order and public tranquillity, is intrusted to him.

The king is supreme head of the land and naval forces.

The care of watching over the external safety of the kingdom, of maintaining its rights and possessions, is delegated to the king.

2. The king appoints ambassadors and other agents of political negotiations.

He appoints to the command of fleets and armies, and confers the ranks of marshal of France and admiral.

He has the appointment of two-thirds the rear admirals, half the lieutenant-generals, *maréchaux-de-camp*, captains of vessels, and colonels of the national gendarmerie.

He appoints a third of the colonels and lieutenant-colonels, and a sixth of the lieutenants of vessels:—in every thing conforming himself to the laws on promotion.

In the civil administration of the marine, he appoints the ordainers, comptrollers, treasurers of the arsenals, the chiefs of works, sub-chiefs of civil buildings, half the chiefs of administration, and sub-chiefs of construction.

He appoints the commissioners of the tribunals.

He appoints the chief overseers for the management of indirect contributions, and for the administration of the national domains.

He has the superintendency of the coinage, and appoints the officers charged with exercising this superintendency in the general commission, and in the mints.

The king's effigy is impressed on all the coins of the kingdom.

3. The king grants the letters-patent, brevets, and commissions to the public functionaries, or others who are to receive them.

4. The king having caused to be drawn up a list of pensions and rewards, presents it every session to the legislative body, which on proper grounds, decrees them.

§ 1. *On the Promulgation of Laws.*

Art. 1. The executive power is charged with affixing the seal of state to laws, and promulgating them.

It is charged in like manner with promulgating and carrying into execution such acts of the legislative body as do not require the king's sanction.

2. Of every law two original copies shall be made, both signed by the king, countersigned by the minister of justice, and sealed with the seal of state. One shall remain deposited in the archives of the seal, the other be committed to those of the legislative body.

3. The promulgation of laws shall be conceived in these terms :

“ N. (*the king's name*), by the grace of God, and by the
 “ constitutional law of the state, king of the French : to
 “ all present, and to come, greeting. The nationāl assem-
 “ bly has decreed, and we will and ordain as follows :”

(*A literal copy of the decree is here inserted without any variation.*)

“ We command and order all administrative bodies and

“tribunals, that they cause these presents to be inscribed
 “on their registers, read, published, and posted up in
 “their departments and respective jurisdictions, and executed as laws of the kingdom: in witness of which we
 “have signed the said presents, and affixed to them the
 “seal of state.”

4. Should the king be a minor, the laws, proclamations, and other acts emanating from the royal authority, during the regency, shall be conceived in the terms following:

“N. (*the regent's name*), regent of the kingdom, in the
 “name of N. (*the king's name*), by the grace of God,
 “and constitutional law of the state, king of the French,
 &c. &c.”

5. The executive power is obliged to transmit the laws to the administrative bodies and tribunals, and to cause this transmission to be certified and proved to the legislative body.

6. The executive power cannot make any law, even provisionally, but merely proclamations conformable to the laws, for ordering or repealing their execution.

§ 2. *Of the Interior Administration.*

Art. 1. In every department is a superior administration, and in every district a subordinate one.

2. The administrators have no representative character. They are agents elected for a time by the people, for exercising under the superintendency and authority of the king, the administrative functions.

3. They cannot interfere in the exercise of the legislative power, or suspend the execution of the laws: neither can they encroach on the judicial order, or on dispositions and operations of a military nature.

4. The administrators are officially charged with the assessment of contributions, and with watching over the money arising from all contributions and public revenues

in their territory. It belongs to the legislative power to determine the mode and rules which are to govern their conduct, as well on the subjects named above, as on every other part of the interior administration.

5. The king has the right of annulling such acts of administrators of departments, as are contrary to the laws, or to the orders which he has addressed to them. In the case of obstinate disobedience, or if they compromise the public safety or tranquillity by their conduct, he can suspend them from their functions.

6. In like manner, the administrators of departments have a right to annul the acts of the sub-administrators of districts which are contrary to the laws or decrees of the administrators of departments, or to the orders which the latter have given or transmitted to them. They can also, in the case of obstinate disobedience on the part of the sub-administrators, or if by their acts they compromise the public safety or tranquillity, suspend them from their functions,—subject to the duty of making the king acquainted therewith, who shall have the power of removing or confirming such suspension.

7. When the administrators of departments shall not have used the power delegated to them in the above article, the king may annul directly the acts of the sub-administrators, and under the same circumstances, suspend them.

8. Whenever the king pronounces or confirms the suspension of administrators or sub-administrators, he shall make the legislative body acquainted therewith.

The legislative body can either remove or ratify the suspension, and even dissolve the culpable administration: It has the power moreover of referring the administrators, or any of them, to the criminal tribunals, and of passing a decree of accusation against them.

§ 3. *On Foreign Relations.*

Art. 1. The king alone can maintain political relations without, conduct negotiations, make preparations of war proportioned to those of the neighbouring states, distribute the forces of land and sea as he shall think proper, and determine their direction in case of war.

2. Every declaration of war shall be framed in these terms : *On the part of the king of the French, in the name of the nation.*

3. It belongs to the king to conclude and sign with all foreign powers, all treaties of peace, alliance and commerce, with such other conventions as he may think necessary to the welfare of the state ; subject to the ratification of the legislative body.

CHAPTER V.—*The Judicial Power.*

Art. 1. The judicial power cannot in any case be exercised by the legislative body, or by the king.

2. Justice shall be rendered gratuitously by judges elected for a time by the people, and instituted by letters-patent from the king, who shall not have the power of refusing them.

They cannot be deprived of their office unless for an offence duly tried ; or suspended, unless upon a received accusation.

The public accuser shall be appointed by the people.

3. The tribunals cannot interfere in the exercise of the legislative power, suspend the execution of the laws, encroach on the administrative functions, or cite before them the administrators for account of their functions.

4. Citizens cannot be withdrawn from the judges whom the law assigns them by any commission, attribution or evocation not sanctioned by the laws.

5. The right which citizens enjoy of definitively terminating their disputes by means of reference, cannot be obstructed by the acts of the legislative power.

6. The ordinary tribunals cannot receive any civil action unless it be proved that the parties have appeared, or that the plaintiff has cited the adverse party before arbitrators to reconcile their differences.

7. There shall be one or more judges of the peace in the cantons and towns. Their number shall be fixed by the legislative power.

8. It belongs to the legislative power to regulate the number and arrondissements of the tribunals, and the number of judges of which each tribunal shall be composed.

9. In criminal cases, no citizen can be judged except on a charge received by jurors, or decreed by the legislative body in the cases in which it belongs to that assembly to prosecute. After the accusation is admitted, the fact shall be examined and declared by the jurors.

The accused person shall have the privilege of challenging twenty, without assigning his motives.

The jurors who declare the fact shall not be less than twelve in number.

The application of the law shall be made by the judges. The trial shall be public, and the assistance of counsel cannot be denied the person accused.

No man acquitted by a lawful jury can be apprehended again, or accused for the same offence.

10. No man can be apprehended except to be conducted before the officer of police; and no one can be put under arrest, or detained, except in virtue of an order of the officers of police, of a warrant of arrest issued by a tribunal, of a decree of accusation by the legislative body in the cases in which it belongs to it to pronounce such decree, or of a sentence of condemnation to prison or correctional detention.

11. Every man apprehended and conducted before an officer of police shall be examined immediately, or at the latest, within twenty-four hours. Should it appear from the examination that no charge can lie against him, he shall be immediately set at liberty; or, if there are just grounds for sending him to the house of detention, he shall be conducted thither with the least delay possible, a delay, that in no case can exceed three days.

12. In all cases where the law permits a person to remain at liberty on bail, no person under arrest can be detained if he give sufficient security.

13. No man whose detention is authorized by law, can be conducted to, or detained in places other than such as are legally and publicly appointed for serving as houses of arrest, houses of justice or prisons.

14. No keeper or gaoler can receive or detain any man, except in virtue of an order, writ of arrest, decree of accusation, or judgment mentioned in article 10 above, nor unless a copy of such instrument be transcribed on his register.

15. Every keeper or gaoler is bound, and no order shall exempt him from it, to produce the person of the detained to the civil officer intrusted with the police of the house of detention, as often as shall be required of him.

The sight of the prisoner cannot, in like manner, be refused his relations and friends bearing an order from the civil officer, who shall be always obliged to grant such order, unless the keeper or gaoler produces an order from the magistrate, transcribed on his register, for keeping the arrested person secret.

16. Every man, whatever be his place or employment, except those to whom the law assigns the right of arrest, who shall give, sign, execute, or cause to be executed, an order for arresting a citizen; or whoever, even in the cases of arrest authorized by the law, shall conduct to, receive,

or detain a citizen in a place not publicly and legally appointed; and, every keeper or gaoler who shall act in contravention to the dispositions laid down in articles 14 and 15 above, shall be deemed guilty of the crime of arbitrary detention.

17. No man can be exposed to inquiry, or prosecuted on account of writings which he shall have printed or published on any subject whatever, unless he has designedly provoked disobedience to the law, the degradation of the constituted powers, resistance to their acts, or some action declared a crime or offence by law.

It is permitted to censure the acts of the constituted powers; but wilful slanders against the probity of public functionaries, and the rectitude of their intentions in the discharge of their functions, may be prosecuted by those against whom they are levelled.

Slanders and injuries against any persons whatever, relating to actions in private life, are liable to prosecution and punishment.

18. No one can be tried either on a civil or criminal prosecution for writings printed or published, unless it be acknowledged and declared by a jury; 1st. That the writing denounced contains an offence, and 2d. that the person prosecuted is guilty of the said offence.

19. A single tribunal of cassation for the whole kingdom, shall be established near the legislative body. Its functions shall consist in pronouncing on petitions for quashing the judgments given in the last resort by the tribunals.

On petitions for removing a cause from one tribunal to another on lawful cause of suspicion.

On the regulations of judges, and exceptions to a whole tribunal.

20. In cases of appeal, the tribunal of cassation can never take cognizance of affairs from the foundation;

but, after having quashed the judgment rendered on a procedure in which the forms have been violated, or which contains an express contravention of the law, it shall return the grounds of the action to the tribunal to which the cognizance of it belongs.

21. If after two cassations, the judgment of the third tribunal should be attacked by the same means as the two first, the question cannot be again discussed in the court of cassation, without its being submitted to the legislative body, which shall pass a decree declaratory of the law; and to this the tribunal of cassation shall be obliged to conform.

22. Every year, the tribunal of cassation shall send to the bar of the legislative body a deputation of eight members, who shall present an account of the judgments given, and annexed to each an abstract of the cause, with the text of the law which formed the grounds of decision.

23. A national high court, formed of members of the tribunal of cassation and high jurymen, shall take cognizance of offences committed by the ministers and principal agents of the executive power, and of such crimes as attacking the general safety of the state, the legislative body shall pass a decree of accusation against.

This court shall assemble only on the proclamation of the legislative body, and at a distance of 30,000 toises at least from the place where the legislature is in session.

24. Writs in execution of the judgments of tribunals shall be conceived in the terms following:

“ N. (*the king's name*), by the grace of God and constitutional law of the state, king of the French; to all present and to come, greeting: the tribunal of — has rendered the judgment following:”

(*Here follows a copy of the judgment, in it being mentioned the names of the judges.*)

“ We command and enjoin all bailiffs on this requisition to put the said judgment into execution ; to our commissioners of tribunals to assist therein ; and to all commanders and officers of the public force to enforce the same, when they are legally required : in witness of which the present judgment is signed by the president of the tribunal and by the registrar.”

25. The duties of the king's commissioners in the tribunals consist in requiring observance of the laws when judgment is given, and in carrying such judgments when given into execution.

They shall not be public accusers, but shall be heard on all accusations, and shall require, during the process, regularity in the forms, and before judgment, application of the law.

26. The king's commissioners in the tribunals shall denounce to the director of the jury, either *ex officio*, or in pursuance of orders given them by the king, attempts against the individual liberty of citizens, against the free circulation of provisions and other objects of commerce, and against the collection of contributions ;

Also offences by which the execution of orders given by the king, in the exercise of the functions delegated to him, should be troubled or prevented ;

Outrages against the rights of persons, resistance to the execution of judgments, and of all executory acts emanating from the constituted powers.

27. The minister of justice shall denounce to the tribunal of cassation, by means of the king's commissioner, and without prejudice to the rights of the parties interested, any acts in which the judges may have exceeded their powers.

The tribunal shall annul these acts ; and if they give grounds for forfeiture, the case shall be denounced to the

legislative body, which shall render a decree of accusation, and send the persons arraigned before the national high court.

Title IV.—*Of the Public Force.*

Art. 1. The public force is instituted for defending the state against enemies from without, and for assuring the maintenance of order and the execution of the laws within.

2. It is composed of the armies of sea and land; of the troops particularly destined to the service of the interior; and subsidiary to these, of the active citizens and their children fit to carry arms, who are inscribed on the list of the national guards.

3. The national guards form neither a military body nor an institution in the state: they are citizens themselves called to the service of the public force.

4. The citizens can never form themselves, nor act as national guards, unless in pursuance of a requisition or other legal authority.

5. In this respect they are placed under an organization determined by law.

Throughout the kingdom, they cannot have more than one mode of discipline, or more than one uniform.

The distinctions of rank and subordination exist only in relation to service, and while it lasts.

6. The officers are elected for a time, and cannot be re-elected until after an interval of service as soldiers.

No person shall command the national guard of more than one district.

7. Every part of the public force employed for the safety of the state against external enemies, shall act under the king's orders.

8. No body, or detachment of troops of the line, can act in the interior of the kingdom without a legal requisition.

9. No agent of the public force can enter the house of a citizen, unless in the execution of the orders of police or justice, or in the cases expressly provided for by law.

10. The requisition of the public force in the interior of the kingdom belongs to the civil officers, according to rules laid down by the legislative power.

11. If disturbances agitate a whole department, the king, on the responsibility of his ministers, shall give the necessary orders for the execution of the laws and restoration of order; but on condition of acquainting the legislative body therewith, if in session, or of calling it together, if separated.

12. The public force is essentially obedient: no armed body can deliberate.

13. The land and naval army and the troops destined to the security of the interior, are subject to particular laws, as well for the maintenance of discipline, as for the form of trials, and the nature of punishment, in the matter of military offences.

Title V.—*Public Contributions.*

Art. 1. The public contributions shall be debated and fixed every year by the legislative body: they cannot continue beyond the last day of the following session, unless expressly renewed.

2. Under no pretext can the funds necessary to the discharge of the national debt and payment of the civil list, be either refused or suspended.

The allowance to the ministers of the catholic worship pensioned, retained, elected or appointed in virtue of the decrees of the national constituent assembly, forms part of the national debt.

The legislative body cannot, in any case, charge the nation with the payment of the debts of any individual.

3. Detailed accounts of the expense of the ministerial

departments, signed and attested by the ministers or comptrollers general, shall be printed and made public at the commencement of every legislature.

The same regulation holds with regard to the statements of receipt of the different contributions, and of all the public revenues.

The accounts of these disbursements and receipts shall be distinguished according to their nature, and express the sums received and expended, year by year, in each district.

The expenses peculiar to each department and relative to the tribunals, to the administrative bodies and other institutions, shall be in like manner rendered public.

4. The administrators of departments, and sub-administrators, cannot establish any public contribution, or make any assessment beyond the time and amount fixed by the legislative body; neither can they resolve upon nor permit, unless authorized by the said body, any local loan on account of the citizens of the department.

5. The executive power directs and superintends the collection and paying in of contributions, and gives all the necessary orders to that effect.

Title VI.—*On the relations of the French Nation with
Foreign Nations.*

The French nation renounces the undertaking any war with the view of making conquests, and will never employ its forces against the liberty of any people.

The constitution does not admit the droit d'aubaine.

Foreigners, settled or not in France succeed to their parents, whether foreigners or Frenchmen. They can contract, acquire and receive property lying in France, and dispose of it, the same as any French citizen, by all the means authorized by the laws.

Foreigners in France are subject to the same criminal and police laws as French citizens, saving the conventions entered into with foreign powers: their persons, property, industry, religious worship, are equally protected by law.

Title VII.—*On the revision of Constitutional Decrees.*

Art. 1. The national constituent assembly declares that the nation has an imprescriptible right to change its constitution; and nevertheless, considering that it is more conformable to the national interest to exercise by those means only which are laid down in the constitution itself, the right of reforming the articles of which experience demonstrates the inconvenience, decrees that such change shall be preceded by an assembly of revisal in the form following.

2. When three successive legislatures shall have manifested a uniform wish for the change of any constitutional article, the revisal called for shall be deemed expedient.

3. The approaching legislature and the one following it, shall have no power to propose the reform of any constitutional article.

4. Of the three legislatures following the aforesaid two, and which are invested with the power of proposing an alteration, the two first shall discuss the subject in the two last months of their last session only, and the third at the end of its first annual session, or at the commencement of the second.

Their deliberations on this business shall be subject to the same forms as legislative acts; but the decrees in which they declare their wish for an alteration shall not be subject to the king's sanction.

5. The fourth legislature, augmented by two hundred

and forty-nine members, elected in each department by doubling the ordinary number which it furnishes for its population, shall form the assembly of revision.

These two hundred and forty-nine members shall be chosen after the election of representatives to the legislative body is completed; a distinct procès-verbal being drawn up.

The assembly of revision shall be composed of one chamber only.

6. The members of the third legislature which shall have demanded the alteration, shall not be eligible to the assembly of revision.

7. The members of the assembly of revision, after having pronounced all together the oath *to live free or die*, shall take individually that *of confining themselves to deliberate on the subjects submitted to them by the uniform wish of the three preceding legislatures ; of maintaining, moreover, to the utmost of their power, the constitution of the kingdom decreed by the national constituent assembly in the years 1789, 1790 and 1791, and of being in all things true to the nation, to the law and the king.*

8. The assembly of revision shall then, and without delay, enter upon the subjects submitted to its examination: at soon as its labours are terminated, the two hundred and forty-nine members appointed in augmentation, shall withdraw, without being able to take part, in any case, in acts appertaining to the legislature.

The French colonies and possessions in Asia, Africa and America, although they form part of the French empire, are not included in the present constitution.

No power instituted by the constitution has the right of changing it in the whole or part, saving the reforms

which may be effected by means of revision, and conformably to the dispositions of Title VII. above.

The national constituent assembly commits the deposit of the constitution to the fidelity of the legislative body, of the king and of the judges, to the vigilance of fathers of families, to wives and mothers, to the affection of young citizens, to the courage of all Frenchmen.

The decrees passed by the national constituent assembly, which are not comprised in the constitutional act, shall be executed as laws; and the laws antecedent thereto which it has not abrogated, shall be equally held in observance, so long as both one and the other continue neither repealed nor modified by the legislative power.

3 September, 1791.

The national assembly having heard the reading of the foregoing constitutional act, and having approved thereof, declares that the constitution is finished, and that it can change nothing contained in it.

A deputation of sixty members shall be immediately appointed for offering during the day, the constitutional act to the king.

Oath of Louis XVI. before the National Assembly in acceptance of the Constitution.

Gentlemen,

I come here to confirm in a solemn manner my acceptance of the constitutional act. In consequence, I swear to be true to the nation and the law,—to employ all the power delegated to me in maintaining the constitution decreed by the national constituent assembly, and in assuring the execution of the laws. May this great and memorable epoch be that of the re-establishment of peace and unanimity, and may it become the pledge of the happiness of the people, and prosperity of the empire.

Proclamation of the Constitution.—14th Sept. 1791.

Citizens,

The national constituent assembly in the years 1789, 1790, 1791, having the 17th June 1791 commenced the work of the constitution, happily terminated it the 3d Sept. 1791.

The constitutional act was solemnly accepted and signed by the king the 14th of the same month.

The national constituent assembly commits the deposit thereof to the fidelity of the legislative body, of the king, and of the judges, to the vigilance of fathers of families, to wives and mothers, to the affection of young citizens, to the courage of all Frenchmen.

ABOLITION OF ROYALTY AND OVERTHROW OF THE CONSTITUTION.

AFTER the 3rd September, 1791, the day on which the national assembly declared the constitution finished, it still held several sittings, and passed some laws. Among these, the most important was that of the 29th of September, on the organization of the national guard.

On the 30th September, the assembly declared its mission finished, and immediately broke up.

In the mean time, the primary and electoral assemblies, convened throughout France, had appointed the members of the legislative assembly; and this body held its first sitting on the 1st October, 1791. On the 4th the king presented himself, and took the oath required by the constitution*.

It was not long before a misunderstanding broke out between the court and the representatives. Two decrees, one against emigrants, and the other against refractory priests, were presented to the king for his sanction, and rejected. In this he did nothing more than exercise the authority which the constitution assigned to him†, though such an essay only served to prove to how low a degree that authority was now reduced.

Three parties divided the assembly; the constitutionalists, the Girondists, and the Jacobins. The first only had any intention of preserving the monarchical constitution. The others agreed to overthrow it; but as it afterwards appeared, with ultimate views of a very different nature.

The republicans every day attacked the men, and

* Chap. 2, sect. 1, art. 4.

† Chap. 3, sect. 3, art. 1.

assailed the institutions which formed an obstacle to their designs. On the 30th of May, 1792, they pronounced the dissolution of the king's constitutional guard. And finally, on the 20th of June, broke out an insurrection, which, whether ordered by the faction themselves, or excited by their inflammatory actions and language, overthrew, it may be said, both the throne and the constitution. The national representation itself received a fatal blow: a procession of armed men were seen defile through the midst of the assembly, the same which afterwrds appeared to demand the heads of the deputies, then objects of popular favour.

The 10th of August completed what the 20th of June had commenced, and two decrees, one suspending the king from his functions, and the other ordering the convocation of a national convention, put a period to the constitution.

The following day another decree *invited* all the citizens to meet in primary assemblies for appointing the members of the convention and for *investing their representatives with unlimited confidence*. Every Frenchman who had attained twenty-one years of age, not in the condition of a servant at wages, was called upon to vote; and every Frenchman aged twenty-five years was declared eligible. The executive power was committed to the ministers.

Of the massacres of the 2nd and 3rd of September we shall only observe, that from that time the power of the Jacobins was supreme. The courage and capacity of the Girondists could no longer make head against their boldness and popularity.

The convention met the 21st of September, 1791, and with one voice decreed the abolition of royalty. A new decree dated the 25th, proclaimed the *French Republic*. The trial of Louis XVI. commenced in the month of January, 1793; the courage of a few deputies was insufficient to defend him

against the fury of the Jacobins, seconded as they were by the pusillanimity of the rest of the convention.

After the king's death the Mountain continued to overawe the convention and to lay waste France. The famous committee of public safety, conductor of anarchy and revolutionary excess, was formed on the 6th of April. On the 31st of May, the convention sacrificed several of its members to the fury of the Jacobins. A great number of deputies, Girondists and Federalists, were proscribed, and most of them dragged to the scaffold. France was covered with revolutionary committees: each department had its proconsul, who was called the *representative of the people*. It was in the midst of all this, however, that the new constitution for the government of the French republic was framed. On the 24th of June it was presented to the acceptance of the people.

CONSTITUTIONAL ACT

PRESENTED TO THE FRENCH PEOPLE BY THE NATIONAL CONVENTION,
24th JUNE, 1793.

Declaration of the Rights of Man and the Citizen.

THE French people, convinced that the neglect and contempt of the rights of man are the sole causes of the misfortunes of the world, have resolved to expose in a solemn declaration those sacred and inalienable rights; to the end that all citizens, being always able to compare the acts of government with the end of every social institution, may never suffer themselves to be oppressed and degraded by tyranny; and that the people may have always before their eyes the basis of their liberty and happiness; the magis-

trate, the rule of his duties ; the legislator, the object of his mission.

They consequently proclaim in presence of the Supreme Being the following declaration of the rights of man and the citizen :—

Art. 1. The end of society is the common happiness. Government is instituted for securing to man the enjoyment of his natural and imprescriptible rights.

2. These rights are, equality, liberty, security, property.

3. All men are equal by nature, and in the eye of the law.

4. The law is the free and solemn expression of the general will : it is the same for all, whether it protects or punishes : it can only ordain what is just and useful to society : it can only prohibit what is injurious thereto.

5. All citizens are equally admissible to public employments. Free nations know no other motives of preference in their elections, than virtue and talent.

6. Liberty is the power belonging to man, of doing every thing which does no injury to the rights of another : it has nature for its principle ; justice for its rule ; the law for its protection. Its moral limits are laid down in this maxim ; *Do not to another what thou wouldst not that he should do unto thee.*

7. The right of declaring our thoughts and opinions, whether by means of the press, or in any other manner ; the right of assembling peaceably, the free exercise of religion, cannot be prohibited.

The necessity of making a declaration of rights supposes either the presence, or remembrance of recent despotism.

8. Security consists in the protection afforded by society to each of its members for the preservation of his person, rights, and property.

9. The law ought to protect public and individual liberty against the oppression of those who govern.

10. No one ought to be accused, arrested or detained except in the cases determined by law, and according to the forms which it prescribes. Every citizen summoned or apprehended by authority of the law ought to obey instantly; he renders himself culpable by resistance.

11. Every act exercised against a man out of the cases, and without the forms which the law determines, is arbitrary and tyrannical: the person against whom such an act is attempted has a right to repel force by force.

12. Those who solicit, expedite, sign, execute or cause to be executed any arbitrary acts, are culpable and ought to be punished.

13. Every man being presumed innocent until he has been declared guilty, if it be judged indispensable to arrest him, every species of severity beyond what is necessary for the security of his person, ought to be severely checked by law.

14. No one ought to be judged and punished until he has been heard or legally summoned, or otherwise than in virtue of a law promulgated before the commission of the offence. The law which punishes offences committed before its existence, is tyrannical. The retroactive effect given to the law is a crime.

15. The law ought to decree such penalties only as are strictly and evidently necessary, proportionable to the offence and beneficial to society.

16. The right of property is the right belonging to every citizen of enjoying and disposing of at his pleasure, his goods, revenues, the fruit of his labours and industry.

17. Citizens cannot be prohibited from exercising their industry on any kind of labour, cultivation or commerce.

18. Every man may engage his services and his time, but he can neither sell himself, nor be sold. His person is not an alienable property. The law does not acknowledge a state of service. That species of engagement only can

exist which is productive of reciprocal care and gratitude between the person who labours and his employer.

19. No one can be deprived of the least portion of his property without his consent, except when the public necessity, legally verified, requires it, and on condition of a just and previous indemnity.

20. No contribution can be established except for the general good. All citizens have a right to concur in the establishment of contributions, to watch over, and demand an account of their application.

21. Public succours are a sacred obligation. Society owes subsistence to unfortunate citizens, either by procuring them labour, or by making provision for such as are unable to labour.

22. Instruction is needful to all. Society should promote to the utmost of its power the progress of public reason, and place instruction within the reach of all the citizens.

23. The social guarantee consists in the action of all for the purpose of securing to each, the enjoyment and preservation of his rights: this guarantee rests on the national sovereignty.

24. It cannot exist unless the limits of the public functions are clearly determined by law, and the responsibility of all the functionaries assured.

25. The sovereignty resides in the people: it is one and indivisible, imprescriptible and inalienable.

26. No portion of the people can exercise the power of the people entire: but each section of the sovereign assembled ought to enjoy with perfect freedom the right of expressing its will.

27. Let every individual who usurps the sovereignty be instantly put to death by the freemen.

28. A nation has always the right of revising, reform- ✓

ing and changing its constitution. One generation cannot subject generations to come.

✓ 29. All citizens have an equal right to concur in the formation of the law, and in the appointment of their agents and delegates.

30. Public functions are essentially temporary : they cannot be considered as distinctions or rewards, but as duties.

31. The offences of the delegates and agents of the people should never go unpunished. No one has a right to pretend himself more inviolable than other citizens.

32. The right of presenting petitions to persons invested with public authority cannot in any case be interdicted, suspended or limited.

33. Resistance to oppression is a consequence of the other rights of man.

✓ 34. There is oppression against the social body when a single one of its members is oppressed : there is oppression against every member when the social body is oppressed.

35. When the government violates the rights of the people, insurrection is for the people, and for every portion of the people, the most sacred and the most indispensable of duties.

CONSTITUTIONAL ACT.

The Republic.

Art. 1. The French republic is one and indivisible.

Distribution of the People.

2. The French people, for the exercise of their sovereignty, are divided into primary assemblies of canton.

3. For administration and justice, into departments, districts and municipalities.

State of Citizens.

4. Every man born and domiciliated in France, who has attained the full age of twenty-one years ; every foreigner of the same age who, domiciliated in France for a year past, lives there on his labour, has acquired a property, or married a French woman, or adopted an infant, or supported an old man ; every foreigner in fine who shall be deemed by the legislative body to have deserved well of humanity, is admitted to the exercise of the rights of a French citizen.

5. The exercise of the rights of a citizen is lost by naturalization in a foreign country, by accepting functions or favours emanating from a non-popular government, by condemnation to corporal or disgraceful punishments, till again reinstated.

6. The exercise of the rights of a citizen is suspended by being in a state of accusation, or by a sentence of contumacy, so long as such sentence remains in force.

Sovereignty of the People.

7. The sovereign people are the universality of French citizens.

8. They appoint their deputies directly.

9. They delegate to electors the choice of administrators, public arbitrators, criminal judges, and those of cassation.

10. They deliberate on the laws.

Primary Assemblies.

11. The primary assemblies are composed of citizens domiciliated for six months past in each canton.

12. They are composed of a number of citizens, which cannot be less than 200, nor more than 600 called to vote.

13. They are constituted by the appointment of a president, secretaries, and scrutators.

14. Their police belongs to them.
15. No one can appear in arms at a primary assembly.
16. The elections are carried on by scrutiny, or *vivâ voce*, at the option of each voter.
17. A primary assembly cannot, in any case, prescribe a uniform mode of voting.
18. The scrutators verify the votes of those citizens who, not knowing how to write, prefer voting by scrutiny.
19. Votes on laws are expressed by *yes* or *no*.
20. The resolutions of the primary assemblies are thus expressed ; *the citizens, met together in the primary assembly of to the number of voters, vote for or vote against, by a majority of*

The National Representation.

21. Population is the sole basis of the national representation.
22. There is one deputy for every 40,000 individuals.
23. Every union of primary assemblies resulting from a population of 39,000 to 41,000 souls, has the immediate appointment of a deputy.
24. This appointment is carried by the absolute majority of suffrages.
25. Each assembly makes a return of its suffrages, and sends a commissioner for the general re-verification to the place designated as the most central.
26. If the first re-verification should not give an absolute majority, recourse is had to a second election, which is decided between the two citizens who have the greatest number of votes.
27. In case of an equality of votes, the senior in age has the preference, whether by ballot or election. In case of equality of age, it is decided by lot.

28. Every Frenchman exercising the rights of a citizen is eligible throughout the republic.

29. Every deputy belongs to the nation entire.

30. In case of the non-acceptance, resignation, exclusion or death of a deputy, his place is filled up by the primary assemblies who appointed him.

31. A deputy who has given in his resignation, cannot quit his post until after the admission of his successor.

32. The French people meet on the first of May, in every year, for making their elections.

33. They proceed to business, whatever may be the number of citizens having a right to vote there present.

34. The primary assemblies are formed extraordinarily on the demand of one-fifth of the citizens who have a right to vote in them.

35. In this case the convocation is made by the municipality of the place where they ordinarily assemble.

36. These extraordinary assemblies do not deliberate, except a moiety, plus one, of the citizens who have a right to vote, are present.

Electoral Assemblies.

37. The citizens, met in primary assemblies, appoint one elector for 200 citizens present or not : two for 301 to 400 : three for 501 to 600.

38. Electoral assemblies are held in the same manner, and with the same forms as primary assemblies.

The Legislative Body.

39. The legislative body is one, indivisible and permanent.

40. Its session is of one year's duration.

41. It meets the first of July.

42. The national assembly cannot constitute itself as such, unless it be composed of at least a moiety of its members, plus one.

43. The deputies cannot, at any time, be called to an account, accused or judged, for opinions which they have expressed in the legislative body.

44. They are liable, for a criminal act, to be seized in the fact; but neither the warrant of arrest, nor warrant to bring them before the tribunals, can be issued against them, except by authority of the legislative body.

The Legislative Body in Session.

45. The sittings of the national assembly are public.

46. The minutes (*procès verbaux*) of its sittings are printed.

47. It cannot deliberate unless at least 200 members are present.

48. It cannot refuse its members permission to speak, in the order in which they are called upon.

49. Its resolutions are carried by a majority of members present.

50. Fifty members have a right to demand the nominal appeal.

51. It has the right of censure over the conduct of its members.

52. The right of police in the place of its sessions, and in the exterior circuit, which it has determined upon, belongs to it.

Functions of the Legislative Body.

53. The legislative body proposes laws and passes decrees.

54. Under the general name of laws are comprised all acts of the legislative body concerning :—

Civil and criminal legislation; the general administration of the revenues and ordinary expenses of the republic; the national domains; the standard, weight, impression and denomination of coins; the nature, amount and collection of contributions; the declaration of war; every new

and general division of the French territory ; public instruction, and public honours paid to the memory of great men.

55. Under the particular name of decrees are comprehended the acts of the legislative body, concerning :

The annual establishment of the forces of land and sea ; the granting or prohibiting the passage of foreign troops through the French territory ; the introduction of foreign naval forces into the ports of the republic ; measures of security and general tranquillity ; the annual and accidental distribution of public aids and works ; orders for the fabrication of monies of every kind ; unforeseen and extraordinary expenses ; local measures, and such as are peculiar to an administration, to a commune, to a description of public works ; the defence of the territory ; the ratification of treaties ; the appointment and dismissal of the commanders in chief of armies ; the prosecution, on their responsibility, of the members of the council and public functionaries ; the accusation of those charged with plots against the general safety of the republic ; every change in the partial division of the French territory ; national rewards.

Framing Laws.

56. Projects of law are preceded by a report.

57. The discussion cannot be opened, and the law be provisionally decreed, within less than a fortnight after the report.

58. The project is printed and sent to all the communes of the republic under this title : *Law proposed.*

59. In forty days after the transmission of the proposed law, if in a moiety of the departments plus one, a tenth of the primary assemblies of each department, regularly formed, shall not have protested, the project is accepted and becomes law.

60. In the event of a protest, the legislative body convokes the primary assemblies.

Title of Laws and Decrees.

61. Laws, decrees, judgments and all public acts are entitled : *In the name of the French people, year of the French republic.*

The Executive Council.

62. There is an executive council composed of twenty-four members.

63. The electoral assembly of each department appoints a candidate ; and the legislative body, from the general list, chooses the members of the council.

64. Half the members of the council are renewed at each legislature in the last month of its session.

65. The council is charged with the direction and inspection of the general administration : it can act only in execution of the laws and decrees of the legislative body.

66. It appoints (the members themselves of the council being ineligible) the agents in chief of the general administration of the republic.

67. The number and functions of such agents are determined by the legislative body.

68. These agents do not form a council : they are separate, have no immediate connexion with each other, and do not exercise any personal authority.

69. The council appoints (its own members being ineligible) the exterior agents of the republic.

70. It negotiates treaties.

71. The members of the council, in case of prevarication, are accused by the legislative body.

72. The council is responsible for the non-execution of laws and decrees, and for the abuses which it does not denounce.

73. It dismisses and replaces the agents in its nomination.

74. It is obliged to denounce them, if there be occasion for it, before the judicial authorities.

Relations of the Executive Council with the Legislative Body.

75. The executive council resides near the legislative body : it has admission and a separate seat in the place of sessions of the legislative body.

76. It is heard whenever it has an account to render.

77. The legislative body calls the council into its presence, either in the whole or in part, and whenever it thinks fit.

Administrative and Municipal Bodies.

78. A municipal administration is established in each commune.

An intermediary administration in each district.

A central administration in each department.

79. The municipal officers are elected by the assemblies of communes.

80. The administrators are appointed by the electoral assemblies of departments and districts.

81. The municipalities and administrations are half renewed every year.

82. The administrators and municipal officers have no representative character. They cannot in any case modify the acts of the legislative body or suspend their execution.

83. The legislative body determines the functions of the municipal officers and administrators, the rules of subordination to which they are subject, and the penalties they are liable to incur.

84. The sittings of the municipalities and administrations are public.

Civil Justice.

85. The code of civil and criminal laws is the same throughout the republic.

86. No obstruction can be put to the right which the citizens enjoy, of deciding their differences by arbitrators of their own choice.

87. The decision of these arbiters is final, unless the parties have reserved the right of appealing therefrom.

88. There are judges of the peace elected by the citizens of the arrondissements determined by law.

89. They reconcile and judge without any charge.

90. Their number and competence are regulated by the legislative body.

91. There are public arbiters chosen by the electoral assemblies.

92. Their number and arrondissements are fixed by the legislative body.

93. They take cognizance of such disputes as have not been finally settled by private arbiters, or by justices of the peace.

94. They deliberate in public. They give their opinions aloud. They decide without appeal on verbal defences or simple memorial without process and without expense. They state the grounds of their decisions.

95. The justices of the peace and public arbitrators are elected every year.

Criminal Justice.

96. In criminal matters no citizen can be judged except on a charge received by the juries, or decreed by the legislative body. The accused have counsel chosen by them, or appointed officially. The conduct of the process is public. The fact and intention are declared by a jury of judgment. The punishment is applied by a criminal tribunal.

97. The judges of criminal causes are chosen every year by the electoral assemblies.

Tribunal of Cassation.

98. A tribunal of cassation is established for the whole republic.

99. This tribunal does not take cognizance of affairs from the origin. It pronounces on the violation of forms, and on express contraventions to the law.

100. The members of this tribunal are appointed every year by the electoral assemblies.

Public Contributions.

101. No citizen is exempted from the honourable obligation of contributing to the public burdens.

National Treasury.

102. The national treasury is the central point of the receipts and disbursements of the republic.

103. It is administered by accountable agents appointed by the executive council.

104. These agents are under the superintendency of commissioners appointed by the legislative body, who are responsible for the abuses which they do not denounce. The legislative body cannot choose them from among its own members.

Of the Accountability.

105. The accounts of the agents of the national treasury and of the administrators of the public money, are given in annually to responsible commissioners appointed by the executive council.

106. These examiners are under the superintendency of commissioners appointed by the legislative body, being others than members of that body, and responsible for the abuses which they do not denounce.

The legislative body passes the accounts.

The Forces of the Republic.

107. The general force of the republic is composed of the entire people.

108. The republic keeps in pay, even in time of peace, an armed force of land and sea.

109. All Frenchmen are soldiers : they are all exercised in the use of arms.

110. There is no generalissimo.

111. The difference of ranks, their distinctive marks and subordination only subsist relative to service, and while it lasts.

112. The public force, employed to maintain order and peace in the interior, cannot act except on a requisition in writing from the constituted authorities.

113. The public force employed against foreign enemies acts under the orders of the executive council.

114. No armed body can deliberate.

National Conventions.

115. If, in a moiety of the departments, plus one, a tenth of the primary assemblies of each of them, regularly formed, demand the revision of the constitutional act or the alteration of any of its articles, the legislative body is obliged to convoke all the primary assemblies of the republic, to ascertain whether there is occasion for a national convention.

116. The national convention is formed in the same manner as the legislatures, and unites their powers.

117. It treats only in relation to the constitution, on the subjects which have given rise to its convocation.

Relations of the French Republic with Foreign Nations.

118. The French people are the friends and natural allies of free nations.

119. They do not interfere in the government of other nations : they will not suffer other nations to interfere in their's.

120. They afford an asylum to foreigners banished their country on account of liberty. They refuse it to tyrants.

121. They make no peace with an enemy who occupies their territory.

Guarantee of Rights.

122. The constitution guarantees to all Frenchmen equality, liberty, security, property, the public debt, the free exercise of religion, general instruction, public succours, the unrestricted liberty of the press, the right of petition, the right of meeting in popular assemblies, the enjoyment of all the rights of man.

123. The French republic honours fidelity, courage, old age, filial piety, misfortune. It remits the deposit of its constitution under the safeguard of all the virtues.

124. The declaration of rights and the constitutional act are engraven on tables placed in the middle of the legislative body, and in the public places.

THE CONSTITUTION OF 1793 ABOLISHED.

ESTABLISHMENT OF THAT OF 1795.

There is no necessity for examining the constitution of 1793. It is agreed upon all hands that it was incapable of being put in execution; and every thing justifies the belief that the faction which imposed it on the convention and on France, never intended to make use of it. At any rate the chiefs of the Mountain proceeded to organize the revolutionary government.

All the authority of the state was conferred on the committee of public safety by the decree of the 19th vendémiaire, year II, (10 October, 1793,) which declared the provisional government of France revolutionary till the

peace. These measures were confirmed by a new decree of the 14 frimaire, year II, (4 December, 1793.) Finally, on the 22 prairial, year II, (10 June, 1794,) a law was passed, which assigned to the revolutionary tribunal the care of punishing the *enemies of the people*. These were so designated, that there was not a man in France who could flatter himself with the hope of impunity. By the terms of Art. 7 of the law, this tribunal pronounced but one punishment—death. Then it was too that the worship of philanthropy was established, the goddess *Reason* placed on the altars, and Robespierre seen celebrating the festival of the Supreme Being.

While this government lasted, France was covered with scaffolds. Nantes, Arras, Bourdeaux, Lyons, in particular, were deluged with blood. The queen Marie-Antoinette had perished since the 16th October, 1793. Yet the horror excited by such a series of crimes would not perhaps have been sufficient to bring on the authors their merited punishment, had not disunion broken out among the members of the committees of public safety and general security, and at length afforded France the means of delivering herself from her tyrants.

A speech delivered by Robespierre the 8th thermidor, year II, in which he divulged the dissensions of the committees, and announced new proscriptions, was the signal for a general rising against him. He was resolutely attacked the following day by Tallien and Collot d'Herbois; he was put out of the protection of the law with several of his accomplices, and on the 10th executed.

The Reign of Terror still continued some time; but this did not prevent the project of a new constitution, which was finally terminated the 5th Fructidor, year III, (22 August, 1795).

CONSTITUTION OF THE FRENCH REPUBLIC.

PROPOSED TO THE FRENCH PEOPLE BY THE NATIONAL
CONVENTION. 5 FRUCTIDOR, YEAR III,
(22 AUGUST, 1795.)

Declaration of the Rights and Duties of Man and the Citizen.

The French people proclaim, in presence of the Supreme Being, the following declaration of the rights and duties of man and the citizen.

Rights.

Art. 1. The rights of man in society are liberty, equality, security, property.

2. Liberty consists in the power to do that which does no injury to the rights of another.

3. Equality consists in the law being the same for all, whether it protects or punishes. Equality admits no distinction of birth, no hereditary succession of powers.

4. Security results from the concurrence of all in securing the rights of each.

5. Property is the right of a man to enjoy and dispose of his goods, revenues, the fruit of his labour and industry.

6. Law is the general will expressed by the majority of the citizens, or of their representatives.

7. What is not forbidden by the law cannot be prevented. No one can be constrained to do what it does not ordain.

8. No one can be brought to justice, accused, arrested or detained, except in the cases determined by law, and according to the forms which it has prescribed.

9. Those who solicit, expedite, sign, execute, or cause to be executed, arbitrary acts, are culpable and ought to be punished.

10. Every degree of rigour beyond what is necessary for

securing the person of an accused, ought to be severely checked by law.

11. No one can be judged before he has been heard, or legally summoned.

12. The law ought to decree such penalties only as are strictly necessary and proportioned to the offence.

13. Whatever treatment aggravates the penalty determined by law, is a crime.

14. No law, whether civil or criminal, can have a retroactive effect.

15. Every man is at liberty to engage his time and services ; but he cannot sell himself or be sold. His person is not an alienable property.

16. Every contribution is established for the general good. It ought to be assessed upon the contributors in proportion to their means.

17. The sovereignty resides essentially in the universality of the citizens.

18. No individual, no partial union of citizens, can arrogate to themselves the sovereignty.

19. No one without a legal commission, can exercise any authority or fill any public function.

20. Every citizen has an equal right to concur, directly or indirectly, in framing laws, in appointing the representatives of the people, and public functionaries.

21. Public functions cannot become the property of those who exercise them.

22. The social guarantee cannot exist if the division of powers be not established, their limits determined, and the responsibility of public functionaries assured.

Duties.

Art. 1. The declaration of rights contains the obligations of legislators : the maintenance of society requires that those who compose it should know and fulfil their duties.

2. All the duties of man and of a citizen are derived from these two principles engraved by nature on the hearts of all : “ Do not to another what thou wouldst not that he should do unto thee ”—“ Do constantly to others the good which you would wish to receive from them.”

3. The obligations of each towards society, consist in defending it, serving it, in living obedient to the laws, and in respecting those who are the organs of them.

4. No man is a good citizen, who is not a good son, a good father, a good brother, a good friend, a good husband.

5. No one is a man of worth, if he be not frankly and religiously an observer of the laws.

6. The man who openly violates the laws, declares himself in a state of war with society.

7. He who, without openly infringing on the laws, eludes them by stratagem or address, wounds the interests of all : he renders himself unworthy of their benevolence and esteem.

8. On the maintenance of property depend the cultivation of the earth, all its productions, every means of labour and the whole social order.

9. Every citizen owes his services to his country, and to the maintenance of liberty, equality and property, whenever the law calls upon him to defend them.

CONSTITUTION.

Art. 1. The French republic is one and indivisible.

2. The universality of French citizens is the sovereign.

Title First.—*Division of Territory.*

3. France is divided into departments.

These departments are: l'Ain, l'Aisne, l'Allier, les Basses-Alpes, les Hautes-Alpes, les Alpes-Maritimes, l'Ardèche,

les Ardennes, l'Arriège, l'Aube, l'Aude, l'Aveyron, les Bouches-du-Rhône, le Calvados, le Cantal, la Charente, la Charente-Inférieure, le Cher, la Corrèze, la Côte-d'Or, les Côtes-du-Nord, la Creuse, la Dordogne, le Doubs, la Drôme, l'Eure, Eure-et-Loir, le Finistère, le Gard, la Haute-Garonne, le Gers, la Gironde, le Golo, l'Hérault, Ille-et-Vilaine, l'Indre, l'Indre-et-Loire, l'Isère, le Jura, les Landes, le Liamone, Loir-et-Cher, la Loire, la Haute-Loire, la Loire-Inférieure, le Loiret, le Lot, Lot-et-Garonne, la Lozère, Maine-et-Loire, la Manche, la Marne, la Haute-Marne, la Mayenne, la Meurthe, la Meuse, le Mont Blanc, le Mont-Terrible, le Morbihan, la Moselle, la Nièvre, le Nord, l'Oise, l'Orne, le Pas-de-Calais, le Puy-de-Dôme, les Basses-Pyrénées, les Hautes-Pyrénées, les Pyrénées-Orientales, le Bas-Rhin, le Haut-Rhin, le Rhône, la Haute-Saône, Saône-et-Loire, la Sarthe, la Seine, la Seine-Inférieure, Seine-et-Marne, Seine-et-Oise, les Deux-Sèvres, la Somme, le Tarn, le Var, Vaucluse, la Vendée, la Vienne, la Haute-Vienne, les Vosges, l'Yonne.

4. The limits of departments may be changed or rectified by the legislative body; but in this case, the surface of a department cannot exceed one hundred square myriamètres (400 square leagues, of 2566 toises each.)

5. Each department is divided into cantons, each canton into communes.

The cantons preserve their present limits.

Their limits may nevertheless be changed or rectified by the legislative body; but in this case there cannot be more than one myriamètre (two mean leagues of 2566 toises each) from the most distant commune to the chief place of the canton.

6. The French colonies are integral parts of the republic, and are subject to the same constitutional law.

7. They are divided into departments as follows :

The island of St. Domingo, of which the legislative body

shall determine the division into four departments at least, or six at most ;

Guadeloupe, Maria-Galande, la Desirade, the Saints and the French part of St. Martin, Martinique, French Guiana and Cayenne, Saint Lucia and Tobago, the isle of France, les Seychelles, Rodrigue and the settlements on Madagascar, the isle of Reunion. The East Indies, Pondicherry, Chandernagor, Mahé, Karical, and other settlements.

Title II.—*Political State of Citizens.*

8. Every man born and resident in France, who, full twenty-one years of age, has enrolled himself on the civic register of his canton, who has lived afterwards one year on the territory of the republic, and pays a direct contribution, whether real or personal, is a French citizen.

9. Those Frenchmen who have served one or more campaigns for the establishment of the republic are citizens without any condition as to contribution.

10. A foreigner becomes a French citizen, when, after having attained the full age of twenty-one years, and declared his intention of settling in France, he has resided there during seven successive years, provided moreover he pays a direct contribution and possesses a real property, or an agricultural or commercial establishment, or has married a French woman.

11. French citizens alone can vote in the primary assemblies, and be called to the functions established by the constitution.

12. A citizen loses the exercise of his rights: 1. By naturalization in a foreign country; 2. By affiliation to any foreign corporation which supposes distinctions of birth, or requires religious vows; 3. By the acceptance of functions or pensions offered by a foreign government; 4. By condemnation to corporal or infamous punishment, until recapacitation.

13 A citizen is suspended from the exercise of his rights : —1. By a judicial prohibition on account of insanity, idiotism, or imbecility ; 2. By a state of bankruptcy, or being an immediate heir and detaining gratuitously, the whole or part of the succession of a bankrupt ; 3. By being in the condition of a domestic at wages, attending on the person, or serving in the house ; 4. By being under accusation ; 5. By a sentence of contumacy, so long as such sentence remains in force.

14. The exercise of the rights of a citizen is neither lost nor suspended, except in the cases laid down in the two preceding articles.

15. Every citizen who shall have resided seven successive years out of the territory of the republic, not having a commission or authority granted in the name of the nation, is reputed a foreigner : he cannot again become a French citizen until he has conformed to the conditions prescribed by Art. 10.

16. Young persons cannot be enrolled on the civic register, unless they prove themselves able to read and write, and to exercise a mechanical profession. The manual operations of agriculture belong to the mechanical professions.

This article shall not take effect until the tenth year of the republic.

Title III.—*Primary Assemblies.*

17. The primary assemblies are composed of citizens domiciliated in the same canton.

The domicile required for voting in these assemblies is acquired by residence alone during a year, and is lost by a year's absence.

18. No one can have a substitute in the primary assemblies, or vote for the same object in more than one of these assemblies.

19. There is at least one primary assembly per canton.

When there are more, each is composed of 450 citizens at least, of 900 at most.

These numbers are understood of the citizens who, whether present or absent, have a right to vote in them.

20. The primary assemblies are constituted provisionally under the presidency of the senior in age; the youngest filling provisionally the office of secretary.

21. They are definitively constituted, by the appointment by ballot, of a president, secretary and three scrutators.

22. If difficulties arise on the qualities requisite for voting, the assembly decides provisionally, saving recourse to the civil tribunal of the department.

23. In every other case, the legislative body alone decides on the validity of the measures of the primary assemblies.

24. No one can appear in arms in the primary assemblies.

25. Their police belongs to them.

26. The primary assemblies meet,—1. To accept or reject the alterations in the constitutional act proposed by the assemblies of revision; 2. To make, in pursuance of the constitutional act, the elections which belong to them.

27. They meet of full right the first germinal (21 March) of every year, and proceed as circumstances require, to the appointment,—1. Of members of the electoral assembly; 2. Of the judge of the peace and his assessors; 3. Of the president of the municipal administration of the canton, or of the municipal officers in communes of more than five thousand inhabitants.

28. Immediately after the said elections, in communes of less than five thousand inhabitants, communal assemblies are held which elect the agents of each commune and their assistants.

29. Whatever is done in a primary or communal assembly beyond the object of its convocation, and against the forms determined by the constitution, is null and of no effect.

30. The assemblies, whether primary or communal, make no other election than those which are assigned to them by the constitutional act.

31. All elections are made by secret ballot.

32. Every citizen who is legally convicted of having sold or purchased a vote, is excluded from the primary and communal assemblies and from all public functions, during twenty years : in case of a second offence, for ever.

Title IV.—*Electoral Assemblies.*

33. Each primary assembly appoints an elector for 200 citizens, present or absent, who have a right to vote in the said assembly.

Up to 300 citizens inclusive, one elector only is appointed ; from 300 to 500, two ; from 500 to 700, three ; from 700 to 900, four.

34. The members of the electoral assemblies are appointed every year, and cannot be re-elected until after an interval of two years.

35. No one can be appointed an elector unless he is full twenty-five years of age, and unites to the qualities necessary for exercising the rights of a French citizen, one of the following conditions :

In communes of more than 6000 inhabitants, that of having property, or the usufruct of property, valued at a rent equal to the local value of 200 days' labour, or being tenant (*locataire*), either of a habitation valued at a rent equal to the value of 150 days' labour, or of a rural estate valued at 200 days' labour.

In communes of less than 6000 inhabitants, that of having property, or the usufruct of property, valued at a rent equal to the local value of 150 days' labour ; or being tenant, either of a habitation valued at a rent equal to the value of 100 days' labour, or of a rural estate valued at 100 days' labour.

And in the country, that of having property or the usufruct of property valued at a rent equal to the local value of 150 days' labour, or being farmer or metayer of property estimated at the value of 200 days' labour.

With regard to those who are proprietors or have the usufruct of one property, and are occupiers, farmers or metayers of another, their qualifications under these different heads shall be estimated in the gross up to the amount necessary to establish their eligibility.

36. The electoral assembly of each department meets the 20 germinal (April 9) of every year, and terminates in a single session of ten days at most, and without power to adjourn, all the elections before them: after which it is of full right dissolved.

37. The electoral assemblies cannot deliberate on any subject foreign to the elections with which they are charged: they can neither send nor receive any address, petition or deputation.

38. The electoral assemblies cannot correspond with each other.

39. No citizen having been member of an electoral assembly can take the title of elector, or unite himself in this quality with those who have been members of the same assembly with him.

He is guilty of an attempt against the general safety, who acts in contravention of the present article.

40. Articles 18, 20, 21, 23, 24, 25, 29, 30, 31, 32 of the preceding title, on primary assemblies, are common to electoral assemblies.

41. The electoral assemblies elect, as circumstances require:—The members of the legislative body, viz., the members of the council of ancients, then the members of the council of five hundred; 2. The members of the tribunal of cassation; 3. The high jurors; 4. The administrators of department; 5. The president, public accuser and

register of the criminal tribunal; 6. The judges of the civil tribunals.

42. When a citizen is chosen by an electoral assembly to an office vacant by the death, resignation or dismissal of a functionary, this citizen is elected for the time only, yet unexpired, of the said functionary's term.

43. The commissioner of the executive directory attached to the administration of each department is obliged, on pain of dismissal, to make the directory acquainted with the opening and closing of the electoral assemblies: this commissioner can neither stop nor suspend the operations of the assemblies, nor enter the seat of their deliberations; but he has a right to demand communication of the minutes of each sitting within the twenty-four hours following it; and he is obliged to denounce to the directory the violations which might be offered to the constitutional act.

In all cases, the legislative body alone pronounces on the validity of the operations of the electoral assemblies.

Title V.—*Legislative Power. General Dispositions.*

44. The legislative body is composed of a council of ancients and a council of five hundred.

45. In no case can the legislative body delegate to one or more of its members, or to any person whatever, any of the functions which are attributed to it by the present constitution.

46. It cannot exercise by itself, or by its delegates, the executive or the judicial power.

47. The rank of member of the legislative body is incompatible with the exercise of any other public function, except that of archivist of the republic.

48. The law determines the manner in which the offices vacated, either definitively or *pro tempore*, by the election of public functionaries to the legislative body, are filled up.

49. Each department concurs in the appointment of

members of the council of ancients and council of five hundred in proportion to its population.

50. Every ten years, the legislative body, according to estimates of population transmitted to it, determines the number of members which the several departments are to furnish each council.

51. No alteration can be made in this distribution during the said interval.

52. The members of the legislative body are not representatives of the department which appoints them, but of the whole nation ; and no instructions can be given them.

53. Both councils are renewed every year by a third.

54. The members going out after three years' service may be immediately re-elected for the three following years ; after which an interval of two years must elapse before they can be again eligible.

55. No one in any case, can be a member of the legislative body during more than six successive years.

56. If, by extraordinary circumstances, one of the two councils find itself reduced to less than two-thirds of its members, it gives notice thereof to the executive directory, which is bound to convoke, without delay, the primary assemblies of the departments which, in consequence of such circumstances, have members to replace in the legislative body : the primary assemblies immediately appoint electors who proceed to fill up the vacancies.

57. The members newly elected for either council meet the first prairial (May 20th) of every year, in the commune fixed upon by the legislative body preceding, or in the same commune where it held its last sitting, if no other has been pointed out.

58. The two councils always reside in the same commune.

59. The legislative body is permanent : it may nevertheless adjourn itself for stated periods.

60. In no case can the two councils meet in one and the same hall.

61. Neither in the council of ancients, nor in that of the council of five hundred, can the functions of president and secretary continue more than a month.

62. The two councils have respectively the right of police in the place of their sessions, and in the external circuit which they determine upon.

63. The two councils have respectively the right of police over their members; but they cannot pronounce a heavier punishment than censure, arrests for eight days and imprisonment for three.

64. The sittings of both councils are public. The strangers present cannot exceed in number half the respective members of each council. The minutes of the sittings are printed.

65. Every resolution is taken by sitting down and rising up: in case of doubt, their names are called over: but the votes on such an occasion are secret.

66. On the demand of a hundred of its members, each council may resolve itself into a general and secret committee, but solely for discussing and not for voting on a subject.

67. Neither council can create a permanent committee out of its own members.

Only, each council has the power, when a subject appears to it susceptible of a previous examination, to appoint from among its members a special commission, which confines itself solely to the object of its formation.

This commission is dissolved as soon as the council has come to a resolution on the subject with which it was charged.

68. The members of the legislative body receive an annual indemnity, fixed for both councils, at the value of 3000 myriagrammes of wheat (613 quintals 32 pounds.)

69. The executive directory cannot march or halt any body of troops within the distance of six myriametres (twelve mean leagues) of the commune where the legislative body holds its sessions, unless on the requisition of the said body or by its authority.

70. A guard of citizens taken from the national sedentary guard of all the departments, and chosen by their brothers in arms, attends the legislative body. This guard cannot be less than fifteen hundred men in active service.

71. The legislative body determines the mode and duration of this service.

72. The legislative body does not attend any public ceremony or send thither any deputation.

Council of Five Hundred.

73. The council of five hundred is invariably fixed at this number.

74. To be elected member of the council of five hundred, it is necessary to be full thirty years of age, and to have been domiciliated on the territory of the republic during the ten years which have immediately preceded the election.

The condition as to the age of thirty years shall not be exacted before the seventh year of the republic: till that period, it shall be deemed sufficient to have attained the full age of twenty-five.

75. The council of five hundred cannot deliberate if the meeting be not composed of at least two hundred members.

76. The privilege of proposing laws belongs exclusively to the council of five hundred.

77. No proposition can be debated or resolved upon in the council of five hundred without observing the following forms:

The proposition is read three times; and the intervals

between two of these readings cannot be less than ten days.

The discussion opens after each reading; yet after the first or second, the council of five hundred may declare that there is ground for an adjournment, or that there is no ground for deliberating.

Every proposition must be printed and distributed two days before the second reading.

After the third reading, the council of five hundred decides whether or not there be ground for adjournment.

78. Every proposition which, submitted to discussion, has been ultimately rejected after the third reading, cannot be again brought forward until after a year's interval.

79. The propositions adopted by the council of five hundred are called *resolutions*.

80. The preamble to every resolution sets forth :—1st. The dates of the three readings of the proposition; 2d. The act, after the third reading, by which it was declared that there was no ground for adjournment.

81. Propositions acknowledged urgent by a previous declaration of the council of five hundred, are exempt from the forms prescribed by Art. 77. This declaration sets forth the motives for such urgency and is referred to in the preamble to the resolution.

Council of Ancients.

82. The council of ancients is composed of two hundred and fifty members.

83. To be elected member of the council of ancients it is necessary to be ;

Full forty years of age ; to be a married man or widower ; and to have had his domicile on the territory of the republic during the fifteen years which shall have immediately preceded the election.

84. The condition as to domicile required by the pre-

ceding article and that prescribed by Art. 74, do not extend to citizens who have gone abroad on a mission from the government.

85. The council of ancients cannot deliberate, unless the sitting be composed of at least one hundred and twenty-six members.

86. It belongs exclusively to the council of ancients to approve or reject the resolutions of the council of five hundred.

87. As soon as a resolution of the council of five hundred comes to the council of ancients, the president reads the preamble.

88. The council of ancients refuses to approve the resolutions of the council of five hundred which have not been taken according to the forms prescribed by the constitution.

89. Should the proposition have been declared urgent by the council of five hundred, the council of ancients deliberates upon approving or rejecting such act of urgency.

90. If the council of ancients reject the act of urgency, it does not deliberate on the grounds of the resolution.

91. If the resolution be not preceded by an act of urgency, it is read three times: the interval between two of these readings cannot be less than five days.

After each reading the discussion opens.

Every resolution is printed and distributed at least two days before the second reading.

92. The resolutions of the council of five hundred adopted by the council of ancients, are called laws.

93. The preamble to laws sets forth the dates of the sittings of the council of ancients in which the three readings took place.

94. The decree of the council of ancients acknowledging

the urgency of a law, is mentioned, with the motives for such urgency annexed, in the preamble to this law.

95. The proposition of a law passed by the council of five hundred, extends to all the articles of the same project: the council of ancients must either reject them all or approve them all.

96. The approbation of the council of ancients is expressed on every proposition of law by this *formula*, signed by the president and secretaries: *The council of ancients approves.*

97. A refusal to adopt, on account of omission of the forms laid down in Art. 77, is expressed by the *formula*, signed by the president and secretaries. *The constitution annuls.*

98. A refusal to approve the principle of a law proposed is expressed by the *formula*, signed by the president and secretaries: *The council of ancients cannot adopt.*

99. In the case last mentioned (Art. 98), the project of law rejected cannot be again presented by the council of five hundred, until after the interval of a year.

100. The council of five hundred may nevertheless present, at any period whatever, a project of law containing articles which formed part of a rejected project.

101. The council of ancients transmits the laws which it has adopted, within the day, as well to the council of five hundred as to the executive directory.

102. The council of ancients may change the residence of the legislative body; in this case, it points out a new place, and the time when the two councils are obliged to appear there.

The decree of the council of ancients on this subject is irrevocable.

103. The very day of the decree, neither council can any longer deliberate in the commune in which they have hitherto resided.

The members who continue their functions there, render themselves guilty of attempt against the safety of the republic.

104. The members of the executive directory who delay or refuse to seal, promulgate and transmit the decree for the removal of the legislative body, are guilty of the same offence.

105. If, within twenty days after that fixed by the council of ancients, a majority of each council shall not have notified to the republic their arrival at the place recently appointed, or their meeting in some other place, the administrators of departments, or in their default, the civil tribunals of departments, shall convoke the primary assemblies for appointing electors, who shall immediately proceed to the formation of a new legislative body, by the election of two hundred and fifty deputies for the council of ancients, and five hundred for the other council.

106. The administrators of departments who, under the circumstances laid down in the preceding article, delay convoking the primary assemblies, render themselves guilty of high treason and attempt against the safety of the republic.

107. All citizens who oppose any obstacle to the convocation of the primary and electoral assemblies in the case mentioned in Art. 106, are declared guilty of the same offence.

108. The members of the new legislative body assemble in the place to which the council of ancients had transferred their sessions. If they cannot meet in this place, wherever a majority shall be found, there is the legislative body.

109. The case mentioned in Art. 102 excepted, no proposition of law can originate in the council of ancients.

Of the Security of Members of the Legislative Body.

110. The citizens who are, or have been members of the legislative body, cannot be called to an account, accused, or judged at any time for what they may have said or written in the exercise of their functions.

111. The members of the legislative body from the moment of their appointment to the thirtieth day after the expiration of their functions, cannot be brought to trial, except according to the forms prescribed in the following articles.

112. They may for criminal actions be apprehended *in flagrante delicto* ; but notice thereof must be given without delay to the legislative body ; and the prosecution cannot be carried on until the council of five hundred has proposed their being brought to trial, and the council of ancients decreed it.

113. Except in the case of *flagrans delictum*, the members of the legislative body cannot be brought before the officers of police or put under arrest, before the council of five hundred has proposed their being brought to trial, and the council of ancients has decreed it.

114. In the cases laid down in the two preceding articles, a member of the legislative body cannot be brought before any tribunal but the high court of justice.

115. They are brought before the same court for acts of treason, dilapidation, manœuvres for subverting the constitution, and attempts against the internal safety of the republic.

116. No denunciation against a member of the legislative body can give rise to a prosecution, if it be not drawn up in writing, signed and addressed to the council of five hundred.

117. If, after having deliberated thereon in the form prescribed by Art. 77, the council of five hundred admit the

denunciation, it declares such admission in the following terms :

The Denunciation against . . . for the act of . . . dated . . . signed by . . . is admitted.

118. The person accused is then summoned: a delay of three clear days is allowed for his appearance, and when he appears, he is heard in the interior of the place of sessions of the council of five hundred.

119. Whether the accused be present or not, the council of five hundred declares after this delay, if there be, or be not, room for an examination of his conduct.

120. If it be declared by the council of five hundred, that there is room for an examination, the person accused is summoned by the council of ancients. A delay of three clear days is allowed for his appearance, and if he appear, he is heard in the interior of the place of sessions of the council of ancients.

121. Whether the accused be present or not, the council of ancients after this delay, and after having deliberated according to the forms prescribed by Art. 91, pronounces the accusation, if there be room for it, and sends the accused before the high court of justice, which is bound to proceed to trial without any delay.

122. Every discussion in the councils, relative to the charging or accusing a member of the legislative body, is carried on in a general committee.

Every resolution on the same subject is taken by calling over the names, and by secret ballot.

123. An accusation pronounced against a member of the legislative body carries with it suspension.

If he be acquitted by the sentence of the high court of justice, he resumes his functions.

Relations of the two Councils with each other.

124. When the two councils are definitively constituted, they give mutual notice by a messenger of state.

125. Each council appoints four messengers of state for its service.

126. They carry to each council and to the executive directory, the laws and acts of the legislative body : they have admission for this purpose into the place of sittings of the executive directory.

They march preceded by two ushers.

127. One of the councils cannot adjourn beyond five days, without the consent of the other.

Promulgation of Laws.

128. The executive directory seals and publishes the laws and other acts of the legislative body, within two days after their reception.

129. It seals and promulgates, within the day, the laws and acts of the legislative body which are preceded by a decree of urgency.

130. The publication of the law and acts of the legislative body, is ordered in the form following :

In the name of the French republic, (law) or (act of the legislative body) . . . The directory ordains that the above law or act of the legislative body be published, carried into execution, and furnished with the seal of the republic.

131. The laws of which the preamble does not attest the observance of the forms prescribed by Art. 77 and 91 cannot be promulgated by the executive directory, and its responsibility on this point shall continue six years.

The laws for which an act of urgency has been approved by the council of ancients, are excepted.

Title VI.—Executive Power.

132. The executive power is delegated to a directory of five members, appointed by the legislative body, then performing the functions of an electoral assembly, in the name of the nation.

133. The council of five hundred forms, by secret ballot,

a list containing ten times the number of persons there are members of the directory to be appointed, and presents it to the council of ancients, who choose by secret ballot out of this list.

134. The members of the directory must be at least forty years of age.

135. They can only be chosen from among citizens who have been members of the legislative body, or ministers.

The observance of this law shall date from the ninth year of the republic.

136. From the first day of the fifth year of the republic, the members of the legislative body cannot be elected members of the directory or ministers, either during the continuance of their legislative functions, or during the first year after the expiration of those functions.

137. The directory is partially renewed by the election of a new member every year. Lot shall decide, during the first four years, on the successive exit of those appointed the first time.

138. No member going out can be re-elected until after an interval of five years.

139. The ascendant and descendant in line direct, brothers, the uncle, and the nephew, cousins in the first degree, and connexions by marriage in the same degrees, cannot be at the same time members of the directory, or succeed each other therein until after an interval of five years.

140. In case of vacancy by death, resignation, or otherwise, in the directory, a successor is elected by the legislative body within a period of ten days at most. The council of five hundred is obliged to propose the candidates within the first five days, and the council of ancients must complete the election within the five last.

The new member is only elected for the time remaining to the person whom he replaces.

Should this time, however, not exceed six months, the

citizen elected shall continue in office till the fifth following year. (For five years and a half.)

141. Every member of the directory presides in his turn during three months only.

The president has the signature and keeping of the seal.

The laws and acts of the legislative body are addressed to the directory in the person of its president.

142. The executive directory cannot deliberate unless at least three of its members are present.

143. It chooses, from others than its own members, a secretary who countersigns dispatches, and draws up the deliberations on a register, in which each member has the right of entering his opinion, with the reasons for it.

The directory may deliberate without the assistance of its secretary, when it thinks proper : in this case, the deliberations are drawn up on a particular register by one of the members of the directory.

144. The directory provides according to the laws, for the internal and external safety of the republic.

It can make proclamations conformable to the laws, and in execution of them.

It disposes of the armed force ; but in no case can the directory collectively, or any one of its members, whether during the continuance of their functions or the two years immediately following such functions, command it.

145. If the directory be informed that any conspiracy is plotting against the external or internal security of the state, it may issue warrants of summons, or warrants of arrest against the presumed authors or accomplices : it may interrogate them ; but it is obliged, under the penalties enacted against the crime of arbitrary detention, to commit them within the delay of two days, to the custody of the officer of police, in order to proceed according to the laws.

146. The directory appoints the generals in chief, but

cannot choose them from among the relations or connexions of its members within the degrees laid down in Art. 139.

147. It watches over and assures the execution of the laws in the administrations and tribunals, by commissioners of its nomination.

148. The directory appoints, not of its own number, the ministers, and dismisses them when it thinks fit. It cannot choose them under the age of thirty years, nor from among the relations or connexions of its members within the degrees laid down in art. 139.

149. The ministers correspond immediately with the authorities subordinate to them.

150. The legislative body determines the number and attributes of the ministers. They cannot be less than six, nor more than eight in number.

151. The ministers do not form a council.

152. The ministers are respectively responsible, both for the non-execution of laws, and for the non-execution of the decrees of the directory.

153. The directory appoints the receiver of direct taxes in each department.

154. It appoints the overseers in chief of indirect taxes, and of the administration of national domains.

155. All the public functionaries in the French colonies, the departments of the Isles of France and Réunion excepted, shall be appointed by the directory till peace.

156. The legislative body may authorize the directory to send into all the French colonies, as circumstances may require, one or more particular agents appointed by it for a limited time. The particular agents shall exercise the same functions as the directory, and be subordinate to that body.

157. No member of the directory can withdraw from the territory of the republic till two years after the cessation of his functions.

158. During this interval, he is obliged to prove his residence to the legislative body.

Article 112 and following to Art. 123 inclusively, relative to the guarantee of the legislative body, are common to the members of the directory.

159. In case of more than two members of the directory being brought to trial, the legislative body shall provide in the ordinary forms for replacing them provisionally, during the trial.

160. Except in the cases laid down in art. 119 and 120, neither the directory nor any of its members can be cited, either by the council of five hundred, or by that of the ancients.

161. The accounts and informations demanded of the directory by either council, are furnished in writing.

162. The directory is every year obliged to present to both councils (in writing) an estimate of the expenses, the situation of the finances, the state of existing pensions, as well as the project of those which it thinks it expedient to establish.

It must point out such abuses as have come to its knowledge.

163. The directory is at all times at liberty to invite the council of five hundred, in writing, to take a subject into consideration : it may propose measures to that body, but not projects drawn up in the form of laws.

164. No member of the directory can absent himself more than five days, or move more than four myriamètres (eight mean leagues) from the place of the residence of the directory, without the authority of the legislative body.

165. The members of the directory cannot appear in the exercise of their functions, whether without or within their houses, unless clothed in their proper costume.

166. The directory has a constant guard paid at the expense of the republic : it is composed of one hun-

dred and twenty horse, and the same number of foot soldiers.

167. The directory is attended by its guards in ceremonies and public processions, in which it has always the first place.

168. Each member of the directory, when out, is attended by two guards.

169. Every military post owes to the directory and each of its members, the superior military honours.

170. The directory has four messengers of state, whom it appoints, and whom it may remove.

They carry to the two councils the letters and memorials of the directory: they have admission for this purpose into the place of sittings of the legislative councils.

They march preceded by two ushers.

171. The directory resides in the same commune with the legislative body.

172. The members of the directory are lodged at the expense of the republic, and in the same edifice.

173. The salary of each member is fixed at the value of 50,000 myriagrammes of wheat (10,222 *quintals*) per annum.

Title VII.—*Administrative and Municipal Bodies.*

174. In every department is at least one central administration, and in every canton one municipal administration.

175. Every member of a departmental or municipal administration must be at least twenty-five years of age.

176. The ascendant and descendant in line direct, brothers, the uncle and the nephew, and connexions by marriage in the same degrees, cannot at the same time be members of the same administration, or succeed each other therein until after an interval of two years.

177. Every departmental administration is composed of five members, and is annually renewed by a fifth.

178. Every commune of which the population is from five to one hundred thousand inhabitants has a municipal administration.

179. In every commune of which the population is less than five thousand inhabitants, there is a municipal agent and an assistant.

180. The union of the municipal agents of each commune forms the municipality of canton.

181. There is, moreover, a president of municipal administration chosen out of the whole canton.

182. In communes of which the population is from five to ten thousand inhabitants, there are five municipal officers ;

In those of ten to fifty thousand inhabitants, seven ;

In those of fifty to a hundred thousand, nine ;

183. In communes of which the population exceeds a hundred thousand inhabitants, there are at least three municipal administrations.

In these communes, the division of municipalities is made in such a manner that the population of the arrondissement of each does not exceed fifty thousand individuals, and is not less than thirty thousand.

The municipality of each arrondissement is composed of seven members.

184. In communes divided into several municipalities, a central office is established for such subjects as are judged of an indivisible nature by the legislative body.

This office is composed of three members appointed by the departmental administration, and confirmed by the executive power.

185. The members of every municipal administration are appointed for two years, and renewed every year by

one half ; or by a part approximating the nearest to one half, and alternately, by the larger and smaller fraction.

186. The administrators of departments and members of the municipal administrations, may be re-elected once, without any interval.

187. Every citizen who has been elected twice following administrator of department, or member of a municipal administration, and who has discharged the functions in virtue of both elections, cannot be elected again till after an interval of two years.

188. In case a departmental or municipal administration should lose one or more of its members by death, resignation or otherwise, the remaining administrators may add to replace them, temporary administrators, to act in this capacity till the next elections.

189. The departmental and municipal administrations cannot modify the acts of the legislative body, or those of the executive directory, or suspend the execution of them.

They cannot interfere in subjects depending on the judicial order.

190. The administrators are essentially charged with the assessment of direct taxes, and with the superintendency of money arising from the public revenues in their territory.

The legislative body determines the rules and mode of their functions, as well on these points, as on the other parts of the interior administrations.

191. The executive directory appoints a commissioner to each departmental and municipal administration, whom it can recal when it thinks fit.

This commissioner watches over and requires the execution of the laws.

192. The commissioner attached to each local administration, must be chosen from among the citizens domi-

ciliated for a year past in the department where such administration is established.

He must be at least twenty-five years of age.

193. The municipal administrations are subordinate to the departmental administrations, and these to the ministers.

In consequence, the ministers, each in his department, may annul the acts of departmental administrations, and the latter the acts of the municipal administrations, when those acts are contrary to the laws or orders of the superior authorities.

194. The ministers may also suspend the administrators of departments who have acted in contravention to the laws or orders of the superior authorities : and the administrators of departments have the same right with regard to the members of municipal administrations.

195. No act of suspension or annulling is definitive, without the formal sanction of the executive directory.

196. The directory may also annul immediately the acts of departmental or municipal administrations.

It may suspend or remove immediately, when it thinks necessary, the administrators, either of department or canton, and when there are grounds for it, send them before the departmental tribunals.

197. Every decree importing cassation of acts, the suspension or discharge of administrators, must be accompanied by a statement of the motives which lead to it.

198. When the five members composing a departmental administration are deposed, the executive directory provides for the vacancy till the following election : but it cannot choose their provisional successors except from among the old administrators of the same department.

199. The administrations, whether of department or canton, can only correspond with each other on such affairs as

are attributed to them by law, and not on the general interests of the republic.

200. Every administration must give an annual account of its conduct.

The accounts rendered by the departmental administrations are printed.

201. All the acts of administrative bodies are rendered public by a register in which they are enrolled, and which is open to all persons under their administration.

This register is closed every six months, and is not deposited for inspection till the day on which it is closed.

The legislative body may extend the delay fixed for this deposit according to circumstances.

Title VIII.—*Judicial Power. General Dispositions.*

202. The judicial functions cannot be exercised either by the legislative body or the executive power.

203. The judges cannot interfere in the exercise of the legislative power, or make any regulation.

They cannot stop or suspend the execution of any law, or cite the administrators before them on account of their functions.

204. No one can be withdrawn from the judges whom the law assigns him, by any commission, or other attributions than such as are determined by an antecedent law.

205. Justice is administered gratuitously.

206. The judges cannot be deposed except by forfeiture legally pronounced, or suspended from their functions, except by an admitted accusation.

207. The ascendant and descendant in line direct, brothers, the uncle and nephew, cousins in the first degree, and connexions by marriage or alliance in those different degrees, cannot be at the same time members of the same tribunal.

208. The sessions of the tribunals are public: the judges

deliberate in secret : sentences are pronounced aloud, and the grounds of the sentence, with the terms of the law applied, are also set forth.

209. No citizen who has not attained the full age of thirty can be elected judge of a tribunal of department, judge of the peace, assessor to a judge of the peace, judge of a tribunal of commerce, member of the tribunal of cassation, juror, or commissioner of the executive directory attached to the tribunals of civil justice.

Civil Justice.

210. No obstacle can be opposed to the right which parties at variance enjoy, of deciding their differences by arbitrators of their own choice.

211. The decision of these arbitrators is without appeal and without recourse to cassation, except the parties have expressly reserved it.

212. In every arrondissement determined by law, is a justice of peace and his assessors. They are all elected for two years, and may be immediately and indefinitely re-elected.

213. The law determines the subjects of which the justices of peace and their assessors take cognizance in the last resort.

It assigns them others which they judge subject to appeal.

214. There are particular tribunals for the commerce of land and sea : the law determines the places where it is permitted to establish them. Their power of judging in the last resort cannot extend beyond the value of 500 myriagrammes of wheat (102 quintals 22 pounds).

215. Affairs of which the judgment belongs neither to the justices of peace, nor tribunals of commerce, either in the last resort or subject to appeal, are carried immediately before the justice of peace and his assessors, to be reconciled.

If the justice of peace cannot effect a reconciliation, he refers them to the civil tribunal.

216. There is a civil tribunal for every department.

Each civil tribunal is composed of at least twenty judges, a commissioner and deputy, appointed and removeable by the executive directory, and a registrar.

Every five years, all the members of the tribunal are elected. The judges are always re-eligible.

217. When the judges are elected, five supplements are appointed, three of whom are taken from among the citizens residing in the commune where the tribunal sits.

218. The civil tribunal pronounces in the last resort, in such cases as are determined by law, on appeals from judgments of justices of peace, arbitrators or tribunals of commerce.

219. Appeals from judgments pronounced by the civil tribunal are carried before the civil tribunal of one of the three nearest departments, as shall be determined by law.

220. The civil tribunal is divided into sections. A section composed of less than five judges is not competent to judge.

221. The judges forming each tribunal appoint by secret scrutiny, and from their own number, the president of each section.

Correctional and Criminal Justice.

222. No one can be apprehended except to be conducted before the officer of police ; and no one can be put under arrest or detained, except in virtue of a warrant from the officers of police, or of the executive directory in the case laid down in Art. 145, of a writ of arrest either of a tribunal or director of a jury of accusation, or of a decree of accusation by the legislative body in such cases as it belongs to that assembly to pronounce it ; or of a sentence of condemnation to prison or correctional detention.

223. For an instrument ordering arrest to be held valid, it is necessary :

1st. That it should express the cause of such arrest, and the law in conformity to which it is ordered ;

2d. That it has been notified to him who is the object of it, and a copy of it left with him.

224. See Constitution of 1791, *On the Judicial Power*, Chap. V. Art. 11, from which this and the following articles are taken.

225. *Idem*, Art. 11.

226. *Idem*, Art. 12.

227. *Idem*, Art. 13.

228. No keeper or gaoler can receive or detain any person, except in virtue of a warrant of arrest, according to the forms prescribed by Art. 223, of an order of caption, a decree of accusation, or of a judgment of condemnation to prison or correctional detention, and unless such instrument shall have been transcribed on his register.

229. See Constitution of 1791, Chap. V. Art. 15.

230. *Idem*, Art. 15.

231. *Idem*, Art. 16.

232. All kinds of severity employed in arrests, detentions or executions, beyond what are prescribed by law, are crimes.

233. In every department, for the trial of offences of which the penalty is neither corporal nor infamous, correctional tribunals are established, which shall not be less than three nor more than six in number.

These tribunals cannot pronounce heavier punishments than imprisonment for two years.

The cognizance of offences of which the punishment does not exceed the value of three days' labour, or imprisonment for three days, is delegated to the judge of the peace, who pronounces in the last resort.

234. Every correctional tribunal is composed of a president, two judges of the peace, or assessors to judges of

the peace of the commune in which such tribunal is established, of a commissioner of the executive power appointed and removeable by the executive directory, and of a registrar.

235. The president of every correctional tribunal is taken, every six months and by turns, from among the members of the sections of the civil tribunal of department, the presidents excepted.

236. Appeal lies from the judgments of the correctional tribunal to the criminal tribunal of the department.

237. In the matter of offences subject to corporal or infamous punishment, no person can be tried except on an accusation admitted by jurors or decreed by the legislative body in all cases where it belongs to that body to make a decree of accusation.

238. A first jury declares if the accusation ought to be admitted or rejected : a second jury takes cognizance of the fact ; and the punishment fixed by law is applied by the criminal tribunal.

239. The jurors vote only by secret ballot.

240. In every department as many juries of accusation are established as correctional tribunals.

The presidents of the correctional tribunals, each in his arrondissement, are the directors of the juries.

In communes of above fifty thousand souls, besides the president of the correctional tribunal, the law can establish as many directors of juries of accusation as the dispatch of affairs may require.

241. The functions of commissioner of the executive power, and of registrar to the director of the jury of accusation, are discharged by the commissioner and registrar of the correctional tribunal.

242. Every director of a jury of accusation has the immediate superintendency of all the officers of police of his arrondissement.

243. The director of a jury prosecutes immediately, as officer of police, on the denunciations which the public accuser, either officially or by order of the executive directory, makes to him: 1. Offences against the liberty or individual safety of individuals; 2. Those committed against the right of persons; 3. Resistance to the execution of judgments, or to any executive act emanating from the constituted authorities; 4. The troubles occasioned and the acts of violence committed, to obstruct the collection of contributions, or the free circulation of provisions and other articles of commerce.

244. A criminal tribunal is established for every department.

245. It is composed of a president, public accuser, four judges chosen in the civil tribunal, a commissioner of the executive power attached to the same tribunal, or his substitutes, and a registrar.

In the criminal tribunal of the department of the Seine there is a vice-president and a substitute to the public accuser: this tribunal is divided into two sections: eight members of the civil tribunal exercise in it the functions of judges.

246. The presidents of sections of the civil tribunal cannot officiate as judges in the criminal tribunal.

247. The other judges serve therein, each in his turn, for a period of six months, in the order of their nomination: and cannot during that period exercise any function in the civil tribunal.

248. The public accuser is charged, 1. With prosecuting offences on acts of accusation admitted by the first jurors; 2. With transmitting to the officers of police the denunciations which are addressed to him directly; 3. With watching over the conduct of the officers of police of the department, and with acting against them according to law in case of negligence or more weighty offences.

249. The commissioner of the executive power is charged,
1. With requiring attention to forms during the process, and before judgment the due application of the law ; 2. With following the execution of the judgments passed by the criminal tribunal.

250. The judges cannot propose any complex question to the jury.

251. The jury to try is composed of at least twelve jurymen. The accused, without being obliged to assign his motives, has the power of challenging the number which the law determines.

252. The process before the jury to try, is public. The accused cannot be denied the assistance of counsel ; whom they may choose, or who are appointed officially.

253. A person acquitted by a legal jury cannot be apprehended again, or accused, for the same offence.

Tribunal of Cassation.

254. See constitution of 1791, on the judicial power ; Ch. V. Art. 19.

255. *Idem*, Art. 20.

256. When after one cassation, the second judgment on the grounds of the case is attacked by the same means as the first, the question cannot be again agitated in the tribunal of cassation without being first submitted to the legislative body, which passes a law to which the tribunal of cassation is obliged to conform.

257. Every year the tribunal of cassation is obliged to send to each section of the legislative body a deputation, to lay before it a statement of the judgments passed, with a notice in the margin, and the text of the law which determined the judgment.

258. The number of judges of the tribunal of cassation cannot exceed three-fourths the number of departments.

259. This tribunal is renewed every year by one-fifth.

The electoral assemblies of departments appoint successively and alternately, the judges who are to succeed those who go out of the tribunal of cassation.

The judges of this tribunal may be always re-elected.

260. Every judge of the tribunal of cassation has a supplement elected by the same electoral assembly.

261. A commissioner and substitutes appointed and removeable by the executive directory, are attached to the tribunal of cassation.

262. The executive directory denounces to the tribunal of cassation, by means of its commissioners, and without prejudice to the rights of the parties interested, the acts in which the judges have exceeded their powers.

263. The tribunal annuls these acts, and if they afford grounds for crimination, the fact is denounced to the legislative body, which, having heard or summoned the accused, passes a decree of accusation.

264. The legislative body cannot annul the judgments of the tribunal of cassation, but may prosecute personally the judges who have incurred forfeiture.

High Court of Justice.

265. There is a high court of justice to try accusations admitted by the legislative body, either against its own members or those of the executive directory.

266. The high court of justice is composed of five judges and two national accusers taken from the tribunal of cassation, and of high jurymen appointed by the electoral assemblies of departments.

267. The high court of justice forms only in virtue of a proclamation of the legislative body drawn up and published by the council of five hundred.

268. It forms and holds its sessions in the place designated by the proclamation of the council of five hundred.

This place cannot be nearer than twelve myriametres to that where the legislative body resides.

269. When the legislative body has proclaimed the formation of the high court of justice, the tribunal of cassation in a public sitting, chooses by lot fifteen of its members: it then appoints in the same sitting, and by secret ballot, five out of these fifteen for judges of the high court of justice—the said five choosing one of their number for president.

270. The tribunal of cassation appoints in the same sitting, by ballot and an absolute majority, two of its members to perform the functions of national accusers in the high court of justice.

271. The instruments of accusation are framed and drawn up by the council of five hundred.

272. The electoral assemblies of each department appoint every year a juror to the high court of justice.

273. The executive directory prints and publishes, one month after the elections, a list of the jurors appointed to the high court of justice.

Title IX.—*The Armed Force.*

274. The armed force is instituted for defending the state against enemies from without, and securing within, the maintenance of order and the execution of the laws.

275. The public force is essentially obedient: no armed body can deliberate.

276. It is divided into national guard sedentary, and national guard in activity.

National Guard Sedentary.

277. The national guard sedentary is composed of all the citizens and sons of citizens capable of bearing arms.

278. Its organization and discipline are the same for the whole republic, and are determined by law.

279. No Frenchman can exercise the rights of a citizen unless he be inscribed on the roll of the national guard sedentary.

280. The distinctions of rank and subordination subsist only in relation to service, and during its continuance.

281. The officers of the national guard sedentary are elected for a time by the citizens who compose it, and cannot be re-elected till after an interval.

282. The command of the national guard of a whole department cannot be habitually intrusted to a single citizen.

283. If it be judged necessary to assemble the whole national guard of a department, the executive directory may appoint a temporary commandant.

284. The command of the national guard sedentary in a city of a hundred thousand inhabitants and above, cannot be habitually intrusted to one man.

National Guard in Activity.

285. The republic keeps in its pay, even in times of peace, under the name of national guard in activity, a land and naval army.

286. The army is formed by voluntary enrolment, and in case of necessity, by the mode which the law determines.

287. No foreigner who has not acquired the rights of French citizen can be admitted into the French armies, unless he has made one or more campaigns for the establishment of the republic.

288. The commanders in chief by land and sea are only appointed in case of war: they receive from the executive directory commissions revocable at pleasure. The duration of these commissions is limited to one campaign; but they may be renewed.

289. The general command of the armies of the republic cannot be confided to a single person.

290. The land and naval army is subject to particular laws with respect to discipline, the form of trials and the nature of punishments.

291. No part of the national guard sedentary, or of the national guard in activity, can act on the internal service of the republic, except on a written requisition from the civil authority, in the forms prescribed by law.

292. The public force cannot be called out by the civil authorities except within the limits of their territory: it cannot be removed from one canton to another without authority to that effect from the departmental administration, or from one department to another without the orders of the executive directory.

293. Nevertheless, the legislative body determines the means of securing, by the armed force, the execution of judgments and the pursuit of accused persons over the whole French territory.

294. In case of imminent danger, the municipal administration of one canton may call out the national guard of the neighbouring cantons. In this case the administration which has made the requisition, and the chiefs of the national guards who are called out, are alike obliged to render an account, at the same instant, to the departmental administration.

295. No foreign troops can be introduced on the French territory, without the previous consent of the legislative body.

Title X.—*Public Instruction.*

296. Primary schools are established in the republic, in which the pupils learn reading, writing, the elements of calculation and those of morality. The republic provides only for the expense of the lodging of the instructors appointed to these schools.

297. Schools of a superior order to the primary schools shall be established in the different parts of the republic. There shall be one at least for every two departments.

298. A national institution is established charged with collecting discoveries, with improving the arts and sciences.

299. The different establishments of public instruction have no subordinate relation to each other, or administrative correspondence.

300. Citizens have a right to form particular establishments of education and instruction, as well as free societies for promoting the progress of the sciences, letters and the arts.

301. National festivals shall be established for keeping up fraternity among the citizens, for attaching them to the constitution, to their country and the laws.

Title XI.—*Finances. Contributions.*

302. The public contributions are deliberated upon and fixed every year by the legislative body, which can alone establish them. They cannot, unless expressly renewed, subsist beyond a year.

303. The legislative body can create such kinds of contribution as it shall deem necessary; but it must every year levy an imposition upon land, and a personal imposition.

304. Every individual who, not coming under the enactments of Arts. 12 and 13 of the constitution, is not included in the roll of direct contributions, has a right to present himself to the municipal administration of his commune, and to inscribe himself for a personal contribution equal to the local value of three days' agricultural labour.

305. The enrolment mentioned in the preceding article can take place only in the month of Messidor every year.

306. Contributions of every kind are assessed upon those who contribute, in proportion to their means.

307. The executive directory directs and watches over the collection and paying in of contributions, and gives the necessary orders for that purpose.

308. Detailed accounts of the expenses of the ministers, signed and certified by them, are rendered public at the commencement of every year.

The same regulation extends to the statements of the receipts of the different contributions, and to all public revenues.

309. The statement of these expenses and receipts are distinguished according to their nature: they express the sums received and expended, year by year, in every part of the general administration.

310. The accounts of expenses peculiar to the departments and relative to the tribunals, administrations, the promotion of the sciences, and to all public works and establishments, are also made public.

311. The administrations of department and the municipalities, cannot make any assessment beyond the sums fixed by the legislative body, nor discuss or permit without being authorized by that assembly, any local loan on account of the citizens of the department, commune or canton.

312. To the legislative body alone belongs the right of regulating the fabrication and issue of every kind of money, of fixing the value and weight, and determining the impression.

313. The directory watches over the fabrication of money, and appoints the officers charged with the immediate exercise of that inspection.

314. The legislative body determines the contributions of the colonies, and their commercial relations with the mother country.

National Treasury and Accountability.

315. There are five commissioners of the national treasury, elected by the council of ancients, from a triple list presented by that of five hundred.

316. They hold their functions for five years : one of them is renewed every year, and may be re-elected without interval, and indefinitely.

317. The commissioners of the treasury are charged with superintending the receipt of all the national money :

With ordering the transfer of sums, and the payment of all public expenses consented to by the legislative body :

With keeping an open account of expenses and receipts with the receiver of the direct contributions of each department, with the different national administrations, and with the paymasters established in the departments.

With keeping up with the said receivers and paymasters, with the governments and administrations, the necessary correspondence for assuring the exact and regular paying in of money.

318. They cannot, under the penalty of forfeiture, make any payment except in virtue,

1. Of a decree of the legislative body, and so far as the funds appropriated to the object, are sufficient to meet it :

2. Of a decision of the directory :

3. Of the signature of the minister who orders the disbursement.

319. They cannot moreover, under penalty of forfeiture, approve of any payment, unless the order signed by the minister whom this kind of expense concerns, set forth the date as well of the decision of the executive directory, as of the decrees of the legislative body which authorize the payment.

320. The receivers of direct contributions in every department, the different national administrations and paymasters in the departments, transmit their respective accounts to the national treasury, which verifies and passes them.

321. There are five commissioners of national accounts elected by the legislative body at the same time, and with the same forms and conditions, as the commissioners of the treasury.

322. The general account of the receipts and expenses of the republic, supported by particular accounts and documents in proof, is presented by the commissioners of the treasury to the commissioners of accounts, who verify and audit them.

323. The commissioners of accounts give notice to the legislative body of the abuses, malversations, and all cases of responsibility, which, in the discharge of their duties, fall under their cognizance. They propose the measures suitable to the interests of the republic.

324. The result of the accounts passed by the commissioners of accounts is printed and made public.

325. The commissioners as well of the national treasury as of accounts, cannot be suspended or dismissed except by the legislative body.

But during the adjournment of the legislative body the executive directory may suspend and provisionally replace the commissioners of the national treasury to the number of two at most, on condition of reporting such suspension to both councils of the legislative body as soon as they resume their sessions.

Title XII.—*Foreign Relations.*

326. War cannot be declared, except by a decree of the legislative body, on the formal and necessary proposition of the executive directory.

327. The two legislative councils concur, in the usual forms, in the passing of decrees declaring war.

328. In case of hostilities threatening or commenced, of menaces or preparations of war against the French republic, the executive directory is obliged to employ the means

placed at its disposal for the defence of the state, subject to the duty of making the legislative body acquainted therewith without delay.

It may even point out the augmentations of force, and such new legislative dispositions as circumstances may require.

329. The directory alone can maintain political relations abroad, conduct negotiations, distribute the land and naval forces as it thinks fit, and regulate their destination in case of war.

330. It is authorized to enter into preliminary stipulations, such as those of armistice and neutrality. It may likewise agree upon secret conventions.

331. The executive directory concludes, signs, or causes to be signed with foreign powers, all treaties of peace, alliance, truce, neutrality, commerce, and other conventions which it thinks essential to the welfare of the state.

These treaties and conventions are negotiated in the name of the French republic by diplomatic agents appointed by the executive directory, and charged with its instructions.

332. Where a treaty contains secret articles, the dispositions of such articles cannot be destructive of the open articles, or extend to any alienation of the territory of the republic.

333. Treaties are only valid after having been examined and ratified by the legislative body: nevertheless, the secret articles may receive provisional execution from the very moment they are agreed to by the directory.

334. Neither of the legislative councils can deliberate upon war or peace, except in a general committee.

335. Foreigners settled or not in France, succeed to their relations whether foreigners or Frenchmen: they may contract, acquire, and receive property situated in France, and dispose of it in the same manner as French citizens, by all the means allowed by the laws.

Title XIII.—*Revision of the Constitution.*

336. If experience prove the inconvenience of any articles of the constitution, the council of ancients can propose the revision of them.

337. The proposition of the council of ancients is in this case subject to the ratification of the council of five hundred.

338. When in the space of nine years, the proposition of the council of ancients, ratified by the council of five hundred, has been made at three periods, at least three years distant from each other, an assembly of revision is convoked.

339. This assembly is composed of two members for each department, all elected in the same manner as the members of the legislative body, and possessing the same qualifications as those required for the council of ancients.

340. The council of ancients appoints a place, at least twenty myriamètres distant from that where the legislative body sits, for the seat of the assembly of revision.

341. The assembly of revision has a right to change the place of its residence, observing the distance prescribed in the preceding article.

342. The assembly of revision exercises no function of legislation or government: it confines itself solely to the revision of the constitutional articles pointed out by the legislative body.

343. All the articles of the constitution, without exception, continue in vigour as long as the alterations proposed by the assembly of revision, are not accepted by the people.

344. The members of the assembly of revision deliberate in common.

345. The citizens who are members of the legislative body when an assembly of revision is convoked, cannot be elected members of this assembly.

346. The assembly of revision addresses immediately to the primary assemblies the project of reform which it has decreed.

It is dissolved when this project has been addressed to them.

347. In no case, can the duration of the assembly of revision exceed three months.

348. The members of the assembly of revision cannot be called to an account, accused, or tried, at any time, for what they have said or written in the exercise of their functions.

During the continuance of their functions, they cannot be brought to trial, unless in pursuance of a decision of the members themselves of the assembly of revision.

349. The assembly of revision attends no public ceremony: its members receive the same indemnity as the members of the legislative body.

350. The assembly of revision has the right of exercising or causing to be exercised, the police of the commune in which it resides.

Title XIV.—*General Dispositions.*

351. There does not exist among the citizens any other superiority than that of the public functionaries, and this is relative to the exercise of their functions.

352. The law recognises neither religious vows, nor any engagement contrary to the natural rights of man.

353. No one can be prevented from speaking, writing, printing, and publishing his opinions.

Writings cannot be made subject to any censure before their publication.

No one can be rendered responsible for what he has written or published, except in the case, provided for by law.

354. No one can be hindered from exercising, in confor-

mity to the laws, the form of religious worship he has chosen.

No one can be compelled to contribute to the expenses of any mode of religion. The republic pays for none.

355. There is neither privilege, right of company or corporation, nor any limitation to the liberty of the press, of commerce, nor to the exercise of industry and arts of any kind.

Every prohibitory law of this nature, when circumstances render it necessary, is essentially provisional, and has no effect beyond a year at most, unless it be formally renewed.

356. The law particularly watches over the professions which interest public manners, the safety and health of citizens ; but admission to the exercise of any of these professions cannot be made to depend on any pecuniary security.

357. The law ought to provide a recompense for the authors of inventions, or for the maintenance of the exclusive property of their discoveries and productions.

358. The constitution guarantees the inviolability of all possessions, or a just compensation for the property of which public necessity, legally attested, might require the sacrifice.

359. The house of every citizen is an inviolable asylum : during the night no one has a right to enter it except in the case of fire, inundation, or a call from within.

During the day, the orders of the constituted authorities may be carried into execution in it.

No domiciliary visit can take place except in pursuance of a law, and for the person or object expressly designated in the act authorizing the visit.

360. No corporation or association contrary to public order, can be formed.

361. No assembly of citizens can give itself the title of a popular society.

362. No particular society which concerns itself with political questions can correspond with any other, or affiliate with it, or hold public sittings composed of members and auditors distinguished from each other, or impose conditions of admission and eligibility; or arrogate any rights of exclusion, or make the members wear any external badge of their association.

363. Citizens cannot exercise their political rights except in the primary or communal assemblies.

364. All citizens are at liberty to address petitions to the public authorities, but they must be individual. No association can present collective petitions except the constituted authorities, and these only on subjects appertaining to their functions.

The petitioners must never forget the respect due to the constituted authorities.

365. Every armed assemblage is an outrage against the constitution; it should be immediately dispersed by force.

366. Every assemblage not armed should be also dispersed, at first by means of a verbal command, and if necessary, by the display of the armed force.

367. Several constituted authorities can never meet to deliberate together: no act emanating from such a meeting can be carried into execution.

368. No one can wear marks tending to recall functions antecedently exercised, or services rendered.

369. The members of the legislative body and all public functionaries, in the exercise of their functions, wear the costume or mark of authority with which they are invested. The law determines the form.

370. No citizen can renounce, either in the whole or part, the indemnity or provision allowed him by the law, on account of public functions.

371. A uniformity of weights and measures is established in the republic.

372. The French æra commences on the 22d of September 1792, the day of the foundation of the republic.

373. The French nation declares that in no case will it suffer the return of the Frenchmen who, having abandoned their country since the 15th July 1789, are not included in the exceptions made to the laws passed against emigrants; and it forbids the legislative body creating new exceptions upon this point.

The possessions of the emigrants are irrevocably acquired to the profit of the republic.

374. The French nation also declares, as guarantee of the public faith, that after an adjudication, legally completed, of national property, whatever may have been its origin, the legitimate holder cannot be dispossessed of it; but a person reclaiming it may, if there be grounds for it, be indemnified by the national treasury.

375. None of the powers instituted by the constitution have a right to alter such constitution, either in the whole or any of its parts, saving such reforms as may be made in the way of revision, conformably to the dispositions of Title XIII.

376. The citizens will constantly bear in mind that it is on the wisdom of their choice, in the primary and electoral assemblies, that the duration, preservation, and prosperity of the republic principally depend.

377. The French people commit the deposit of the present constitution to the fidelity of the legislative body, of the executive directory, of administrators and judges; to the vigilance of fathers of families; to wives and mothers; to the affection of young citizens, and to the courage of all Frenchmen.

Address of the National Convention to the French People.—
6 Fructidor, Year III, (23 August, 1795.)

Frenchmen,

The moment is now come when after continued storms, you are about to fix your destiny in pronouncing

on your constitution. Long has the country called aloud for a free government, capable of affording in the wisdom of its principles, a pledge for its permanency. Have your agents attained this object? They believe it—they have at least ardently desired it.

Patriots of 1789, who in the midst of revolutionary tumults remained pure—generous warriors, who have shed your blood in the service of your country—citizens, who love order and tranquillity—accept the pledge. The government which is offered for your acceptance, by giving us peace, can alone restore to us abundance and happiness.

Frenchmen, citizens of all professions, of all opinions, rally in the cause of your country—above all, turn not your looks back to the point of departure. Within six years, ages have rolled away; and, if the French people are tired of revolutions, they are not so of liberty. You suffer, it is true—but it is not in creating new revolutions, but in finishing that which has commenced, that you can hope to find a period to your misfortunes.

No. You will not impute to the republic, which hitherto has never been organized, the evils which, under a government free without licentiousness, and strong without despotism, cannot again recur.

Sovereign people. Listen to the voice of your agents: the project of the social compact which they now offer you, has been dictated by the desire of your happiness.

It is yours to attach to it your destinies: consult your interest and your glory, and your country is saved*.

* The 1st. Vendémiaire, year IV, the national convention declared that the constitution was accepted by the French people. The return of votes proved that 1,057,390 citizens had given their suffrages for the constitution, and that 49,977 had rejected it.

SUBVERSION OF THE CONSTITUTION OF 1795 BY
BONAPARTE, AND ESTABLISHMENT OF
THE CONSULAR GOVERNMENT.

By the constitution of 1795, which may be considered an amelioration of that of 1791, three powers were created. The council of *five hundred*, invested with the privilege of proposing laws; the council of *ancients*, whose business it was to sanction or reject them, and the *Executive Directory*, which from its attributes, was for a time able to exercise so considerable an influence, that the period of its government is distinguished by the title of the *Reign of the Directory*.

This act was immediately followed by two laws. That of the 5th Fructidor declared re-eligible the members of the convention then in activity: that of the 13th instructed the electoral assemblies to appoint at first two-thirds of the members that each had to furnish the legislative body, and to choose them, either from among the actual representatives of their departments, or from the other members of the convention eligible by law.

By these means the legislative body which succeeded the convention, came to be formed of two-thirds of its members, and thus the influence of the latter assembly was bound to be prolonged, even after its dissolution. This was the object in view, and to obtain it every stratagem was resorted to by men who, having once tasted of power, could not endure to let it escape them.

Tired however of a government which they thought afforded them just grounds for complaint, the primary assemblies of Paris declared themselves permanent, and, in spite of an order to separate, continued their sittings.

The sections imitated their example, refused to acknowledge the decrees of the 5th and 13th Fructidor and 13th Vendémiaire, and marched in arms against the convention.

This body repelled force by force. At length, some days after, it terminated its sessions, leaving examples of vast conceptions and ridiculous ideas, monuments of genius and atrocity.

On the following day, the legislative body met in a general sitting for proceeding to its division into two councils; and two days after, the five directors were appointed, being also taken from among the members of the convention.

A good understanding could not long exist between bodies whose rival powers necessarily brought them into continual contact. On the other hand, war without and within, the laws of exception, of which the most part were yet in vigour, every thing tended to excite irritation. The counter-revolutionary party daily became more powerful: they had prevailed in several electoral sessions; and already was it proposed, in a secret committee of the members of the councils, to dissolve the directory.

The 18th Fructidor (4th of September, 1799) arrived. A division had broken out between the two great powers of the state, and the councils extraordinarily convoked, had declared themselves permanent. Three of the directors at length took a decisive step, and ordered proscriptions and banishments. Two members of the directory, suspected of favouring the royalist party, fifty-two members of the councils, and a great number of other individuals, were transported to Guiana.

It was soon found however that this measure, far from calming, had on the contrary only served to increase the disaffection.

A change of some of the members of the directory failed to produce a corresponding change in the principles or conduct of that body; and the springs of the political machine continued to clash until the æra of a new order of things.

It was on the 18th Brumaire that General Bonaparte, yet covered with the dust of camps, came in the face of France, to attack its dearest rights. The legislative body was transferred to St. Cloud. The five hundred, in the midst of the agitation, take a vain oath to the constitution. Bonaparte appears in the assembly. He wishes to speak ; but his voice is stifled. The tumult increases ; grenadiers occupy the gates, and a new form of government is dictated at the point of the bayonet.

The wreck of the assembly met under the presidency of Lucien, brother to the General. The session was resumed: the directory was suppressed, and superseded by a consular commission composed of two ex-directors and Bonaparte himself. A month after, the constitution of the year 8 was established, which created the consular government.

CONSTITUTION OF THE FRENCH REPUBLIC

DECREED BY THE LEGISLATIVE COMMISSIONS OF THE TWO COUNCILS,
AND BY THE CONSULS, 22 PRIMAIRE, YEAR 8,
(13TH OF DECEMBER, 1799.)

Title I.—*On the exercise of the Rights of Citizenship.*

Art. 1. The French republic is one and indivisible. Its European territory is divided into departments and communal arrondissements.

2. Every man born and residing in France, who being full twenty-one years of age, has inscribed himself on the civic register of his communal arrondissement, and has since remained during a year on the territory of the republic, is a French citizen.

3. A foreigner becomes a French citizen when, after having attained the age of twenty-one years complete, and after having declared his intention of settling in France, he has resided there during ten successive years.

4. The rank of French citizen is lost ; by naturalization in a foreign country ; by the acceptance of functions or pensions offered by a foreign government ; by affiliation to any foreign corporation which supposes distinctions of birth ; by condemnation to corporal or infamous punishments.

5. The exercise of the rights of French citizen is suspended ; by a state of bankruptcy, or being an immediate heir, and detaining gratuitously the whole or part of the succession of a bankrupt ; by being in the condition of a domestic at wages attending on the person or serving in the house ; by a state of judiciary interdiction, accusation or contumacy.

6. To exercise the rights of citizenship in a communal arrondissement, it is necessary to have acquired a domicile therein by a year's residence, and not to have lost it by a year's absence.

7. The citizens of each communal arrondissement designate by their votes those amongst them whom they think the fittest to manage the public affairs. From this result a confidential list containing a number of names equal to one-tenth the number of citizens who have the right of contributing to it. The public functionaries of the arrondissement must be taken from this first communal list.

8. The citizens comprised in the communal list of a department designate in a similar manner a tenth amongst them. Hence results a second list, called departmental, from which must be taken the public functionaries of the department.

9. The citizens placed in the departmental list designate in like manner a tenth of their own number ; and hence a

third list is formed comprising the citizens of the department eligible to the national public functions.

10. The citizens having a right to assist in the formation of any of the lists mentioned in the three preceding articles, are called upon every three years, to supply the place of those upon the lists who may have died, or who are absent from any other cause than that of exercising a public function.

11. They can at the same time expunge from the list, those whom they think unfit to be kept there, and replace them by other citizens in whom they have greater confidence.

12. No one can be struck off a list except by the votes of an absolute majority of the citizens who have a right to co-operate in the formation of such list.

13. A person is not removed from a list of eligible citizens, from this circumstance alone, that he is kept on another list of an inferior or superior degree.

14. Enrolment on a list of eligible citizens is only necessary with regard to those of the public functions, for which this condition is expressly required by the constitution and by law.

These lists shall be formed for the first time in the year 9.

The citizens appointed in the first formation of the constituted authorities, shall make a necessary part of the first lists of eligible persons.

Title II.—*Of the Conservative Senate.*

15. The conservative senate is composed of eighty members, of at least forty years of age. They are irremovable, and hold their offices for life.

To form the senate, sixty members shall be at first chosen. This number shall be increased to sixty-two in the year 8; to sixty-four in the year 9; and be thus gra-

dually raised to eighty by the addition of two members in each of the ten first years.

16. The appointment to the rank of senator is vested in the senate, which chooses one of three candidates presented; the first by the legislative body, the second by the tribunate, and the third by the first consul. When one candidate is presented by two of these authorities the senate chooses between two only; and it is bound to admit a person who is proposed at the same time by the three authorities.

17. The first consul going out of office, whether through the expiration of his functions, or by resignation, becomes necessarily and of full right, a senator.

The two other consuls, during the month which follows the expiration of their functions, are at liberty to take their seats in the senate, but are not obliged to exercise this right. They do not possess this right at all when they resign their consular functions.

18. A senator is for ever ineligible to any other public function.

19. All lists framed in the departments in pursuance of Art. 9. are addressed to the senate, and compose the national list.

20. From this list the senate elects the legislators, tribunes, consuls, judges of cassation, and commissioners of accounts.

21. The senate confirms or annuls all the acts referred to it as unconstitutional by the tribunate or the government. The lists of eligibles are included in these acts.

22. Certain revenues arising from the fixed national domains are appropriated to the expenses of the senate. The annual pay of each member is drawn from these revenues, and is equal to the twentieth part of that of the first consul.

23. The sittings of the senate are not public.

24. The citizens *Sieyes* and *Roger-Ducos*, consuls going

out, are appointed members of the conservative senate. These, united with the second and third consuls appointed by the present constitution, shall choose a majority of the senate, which afterwards completes itself and proceeds to the elections with which it is intrusted.

Title III.—*Of the Legislative Power.*

25. No new law shall be promulgated until the project shall have been proposed by the government, communicated to the tribunate, and decreed by the legislative body.

26. The projects which are proposed by the government are reduced into articles. The government can withdraw them in any stage of the discussion. It can also modify, and again bring them forward.

27. The tribunate is composed of one hundred members, who must be at least twenty-five years of age. They are renewed by a fifth every year, and are indefinitely re-eligible as long as they remain on the national list.

28. The tribunate discusses the projects of laws, and votes their adoption or rejection. It commissions three of its members, as orators, to explain and defend before the legislative body the grounds on which the opinions it has expressed relative to the said projects are founded. It refers to the senate the lists of eligibles, the acts of the legislative body, and those of the government, when such lists or acts are unconstitutional; and in this case only.

29. It expresses its wishes on laws passed and passing, on the abuses that require correction, on the ameliorations called for in any part of the public administration; but never on civil or criminal affairs carried before the tribunals.

The wishes which it expresses in virtue of the present article have no necessary consequence, and do not oblige any constituted authority to take them into consideration.

30. When the tribunate adjourns, it may appoint a com-

mission of ten to fifteen members, charged with convoking it when they think it expedient.

31. The legislative body is composed of three hundred members, at least thirty years of age. They are renewed by a fifth every year. One citizen at least from every department in the republic must have a seat therein.

32. A member going out of the legislative body cannot re-enter until after the expiration of a year's interval; but he may be immediately elected to any other public function, including that of tribune, if in other respects eligible.

33. The session of the legislative body commences every year the 1 frimaire (22 of November), and continues only four months. It may be extraordinarily convoked by the government during the eight remaining months.

34. The legislative body enacts laws by secret ballot, on the projects which are debated before it by the orators of the tribunate and the government, without any discussion on the part of its own members.

35. The sittings of the tribunate, and those of the legislative body, are public: the number of strangers at either cannot exceed two hundred.

36. The annual pay of a tribune is fifteen thousand francs; that of a legislator, ten thousand.

37. Every decree of the legislative body is promulgated by the first consul the tenth day after its adoption, unless during that interval appeal be made to the senate on the ground of unconstitutionality. When a law is promulgated this appeal cannot be made.

38. The first renewal of the legislative body and the tribunate shall not take place until in the course of the year 10.

Title IV.—*Of the Government.*

39. The government is intrusted to three consuls, appointed for ten years, and indefinitely re-eligible. Each of

them is elected individually with the distinct titles of first, second, and third consul.

The constitution appoints the citizen *Bonaparte*, ex-consul provisionally, first consul; the citizen *Cambacérès*, ex-minister of justice, second consul; and the citizen *Lebrun*, ex-member of the commission of the council of ancients, third consul.

For this time, the third consul is appointed for five years only.

40. The first consul has functions and attributes peculiar to himself; in which, when occasion requires, his place is supplied by one of his colleagues.

41. The first consul promulgates laws: he appoints and discharges at will the members of the council of state, the ministers, ambassadors and other external agents in chief, the officers of the land and naval forces, the members of the local administrations, and the government commissioners in the tribunals. With the exception of judges of the peace, and judges of cassation, he appoints all the criminal and civil judges, but without the power of discharging them.

42. In the other acts of government the second and third consuls have a deliberative voice: they sign the minutes of these proceedings, to attest their presence; and if they please, add thereto their opinions; after which the decision of the first consul is sufficient.

43. The salary of the first consul shall be five hundred thousand francs for the year 8. That of each of the other consuls is equal to three-tenths the sum assigned to the first consul.

44. The government proposes laws, and makes the regulations necessary to assure their execution.

45. The government directs the receipts and expenses of the state, conformably to the annual law which determines the amount of both. It superintends the coining of money,

of which the law alone ordains the issue, fixes the title, weight and impression.

46. When the government is apprized of a conspiracy plotting against the state, it may issue summons of appearance, and warrants of arrest against the persons who are presumed authors or accomplices; but if within ten days after their arrest, they are not set at liberty or placed in a regular course of justice, the minister who has signed the warrant, renders himself responsible for the crime of arbitrary detention.

47. The government provides for the internal security and external defence of the state: It distributes the land and naval forces, and regulates their destination.

48. The national guard in activity is subject to the regulations of the public administration. The national guard sedentary is subject to the law only.

49. The government maintains political relations without, conducts negotiations, makes preliminary stipulations, signs, causes to be signed and concludes all treaties of peace, alliance, truce, neutrality, commerce, and other conventions.

50. Declarations of war and treaties of peace, alliance and commerce, are proposed, discussed, decreed and promulgated like laws. Only the discussions and deliberations on these subjects, as well in the tribunate as in the legislative body, are carried on, when the government requires it, in a secret committee.

51. The secret articles of a treaty cannot be destructive of the public articles.

52. The council of state, under the direction of the consuls, is charged with framing the projects of laws and regulations of public administrations, and with resolving such difficulties as arise in administrative matters.

53. The orators commissioned to speak in the name of the government before the legislative body, are always

taken from among the members of the council of state. More than three are never commissioned to defend the same project of law.

54. The ministers procure the execution of the laws, as well as that of the regulations of public administration.

55. No act of government can be held valid unless it is signed by a minister.

56. One of the ministers is particularly charged with the administration of the public treasure. He secures the receipts, orders the transfer of sums, and the payments authorized by law. He can make no payment unless in pursuance, 1. Of a law, and so far as the funds destined by it to meet a particular kind of expense contribute thereto ; 2. Of a decree of the government ; 3. Of an order signed by a minister.

57. The detailed accounts of the expenses of each minister, signed and certified by him, are rendered public.

58. The government cannot elect or employ as counselors of state or ministers, any other than citizens whose names are found inscribed on the national list.

59. The local administrations established for each communal arrondissement, or for more considerable portions of territory, are subordinate to the ministers. No one can become, or remain a member of these administrations, unless he stand and be retained upon one of the lists mentioned in articles 7 and 8.

Title V.—*Of the Tribunals.*

60. Each communal arrondissement has one or more judges of the peace, elected immediately by the citizens for a period of three years. Their principal function consists in reconciling parties, and in inviting them, in case of non-reconciliation, to refer their disputes to arbitrators.

61. In civil matters there are tribunals of the first resort, and tribunals of appeal. The law determines the organi-

zation of both, their competency, and the territory forming the jurisdiction of each.

62. In the case of offences subject to corporal or ignominious punishment, a first jury admits or throws out the charge: if admitted, a second jury takes cognizance of the fact; and the judges, forming a criminal tribunal, apply the penalty. Their judgment is without appeal.

63. The office of public accuser in a criminal tribunal is filled by the government commissioner.

64. Offences which do not incur corporal or ignominious punishment are tried by the tribunals of correctional police, saving appeal to the criminal tribunals.

65. There is for the whole republic one tribunal of cassation, which pronounces on petitions for quashing judgments rendered in the last resort by the tribunals; on petitions for removing a cause from one tribunal to another, on account of lawful suspicion or of the public safety, and on exceptions to a whole tribunal.

66. The tribunal of cassation does not take cognizance of the merits of causes, but it breaks the judgments rendered on proceedings in which the forms have been violated, or which contain express contraventions of the law; and it returns the grounds of the action to the tribunal to which cognizance of it belongs.

67. The judges composing the tribunals of first resort, and the commissioners of government attached to the tribunals, are chosen from the communal or from the departmental list.

The judges composing the tribunals of appeal and the commissioners attached to them, are chosen from the departmental list.

The judges composing the tribunal of cassation and the commissioners attached to this tribunal, are chosen from the national list.

68. With the exception of judges of the peace, all the

judges hold their offices for life, unless they are pronounced to have forfeited them, or are erased from the list of eligibles.

Title VI.—*Of the Responsibility of Public Functionaries.*

69. The functions of members either of the senate, of the legislative body, or of the tribunate; those of the consuls and counsellors of state, do not give rise to any responsibility.

70. Personal offences incurring corporal or infamous punishment committed by a member of the senate, of the tribunate, of the legislative body, or of the council of state, are prosecuted before the ordinary tribunals, after a resolution of the body to which the accused belongs, shall have authorized such prosecution.

71. Ministers charged with offences of a private nature subject to corporal or ignominious punishment, are considered as members of the council of state.

72. The ministers are responsible, 1. For every act of government signed by them which is declared unconstitutional by the senate; 2. For the non-execution of laws, and regulations of public administration; 3. For the particular orders which they have given, when such orders are contrary to the constitution, to the laws and regulations.

73. Under the circumstances mentioned in the preceding article, the tribunate denounces the minister by an act, on which the legislative body deliberates in the ordinary forms, after having heard or summoned before them the person denounced. The minister, put on his trial by a decree of the legislative body, is tried by a high court, without appeal, and without recourse to cassation.

The high court is composed of judges and jurymen. The judges are chosen by the tribunal of cassation, and from its own members; the jurymen are taken from the na-

tional list: the whole according to the forms prescribed by law.

74. Civil and criminal judges are prosecuted for offences relating to their functions, before the tribunals to which the court of cassation returns them, after having annulled their acts.

75. The agents of government, with the exception of the ministers, cannot be prosecuted for acts relating to their functions, unless in virtue of a decision of the council of state: in this case the prosecution is carried on before the ordinary tribunals.

Title VII.—*General Dispositions.*

76. The house of every person inhabiting the French territory is an inviolable asylum. During the night no one has a right to enter therein unless in the case of fire, inundation or call from the interior of the house. During the day it may be entered for a special object, determined either by a law, or by an order emanating from a public authority.

77. To render an instrument which orders the arrest of a person valid, it is necessary, 1. That it formally state the motives for such arrest, and the law in execution of which it is ordered; 2. That it emanate from a functionary to whom the law has formally assigned the power; 3. That it be notified to the person arrested, and a copy of it left with him.

78. A keeper or gaoler cannot receive or detain any person until he has transcribed on his register the instrument which orders the arrest: this instrument must be an order issued according to the forms prescribed by the preceding article, an order for the apprehension of his person, a decree of accusation, or a judgment.

79. Every keeper or gaoler is obliged, and no order shall exempt him from it, to produce the person of the detained,

to the civil officer having the police of the house of detention, as often as it shall be required of him.

80. The sight of the prisoner cannot be refused his relations and friends bearing an order from the civil officer, who shall be always obliged to grant it, unless the keeper or gaoler produces an order of the judge for keeping the said person secret.

81. Every man, except those who have received from law the power of causing arrest, who shall give, sign, or execute the arrest of any person whatever; or whoever, even in the cases of arrest authorized by law, shall receive or detain the person arrested in a place of detention not publicly and legally designated as such, and all keepers and gaolers who act in contravention to the regulations of the three preceding articles, shall be deemed guilty of the crime of arbitrary detention.

82. All severities exercised in arrests, detentions and executions, except such as are authorized by the laws, are crimes.

83. Every person has a right to address individual petitions to every constituted authority, and particularly to the tribunate.

84. The public force is essentially obedient: no armed body can deliberate.

85. The offences of the military are subject to special tribunals and to particular forms of trial.

86. The French nation declares that pensions shall be granted to all military persons wounded in defence of their country, as well as to the widows and children of those who have perished on the field of battle, or died in consequence of their wounds.

87. National rewards shall be decreed the warriors who have performed brilliant services in fighting for the republic.

88. A national institute is charged with collecting dis-

coveries, with bringing to perfection the sciences and the arts.

89. A commission of national accounts regulates and verifies the accounts of the receipts and expenses of the republic. This commission is composed of seven members chosen by the senate from the national list.

90. A constituted body cannot come to a resolution unless at least two-thirds of its members are present.

91. The government of the French colonies is determined by particular laws.

92. In the case of an armed revolt, or of troubles which threaten the safety of the state, the law can suspend, in such places and for such time as it may determine, the empire of the constitution. This suspension, under the same circumstances, may be provisionally declared by a decree of the government during the vacation of the legislative body, provided that body be convoked within the shortest term possible by an article of the same decree.

93. The French nation declares that it will not, under any circumstances, permit the return of the Frenchmen, who, having abandoned their country since the 14th July 1789, are not included in the exceptions made to the laws enacted against emigrants: and it forbids any new exception on this subject.

94. The French nation declares that after a sale of national property, legally completed, whatever be the origin of such property, the legitimate purchaser cannot be dispossessed, except where a third party (if such case should occur) puts in a claim of indemnity from the public treasury.

95. The present constitution shall be immediately offered to the acceptance of the French people.

Done at Paris the 22 Frimaire, 8th year of the French republic, one and indivisible.

PROCLAMATION OF THE CONSULS OF THE
REPUBLIC.

14 FRIMAIRE, YEAR 8TH. (15 DECEMBER 1799.)

The Consuls of the Republic to the French.

A constitution is presented to you.

It terminates the uncertainty which the provisional government occasioned in external relations, and in the internal and military situation of the republic.

It places in the institutions which it establishes, the first magistrates whose devotion appeared necessary to its activity.

The constitution is founded on the true principles of representative government, on the sacred rights of property, equality and liberty.

The powers which it institutes shall be strong and permanent, such as they ought to be for guaranteeing the rights of citizens and the interests of the state.

Citizens! the revolution is fixed on the principles which commenced it: It is finished.

ROGER-DUCOS, BONAPARTE, SIEYES.

PROCLAMATION OF THE CONSULS ON THE ACCEPT-
ANCE OF THE CONSTITUTION.

18 PLUVIOSE, YEAR 8. (7 FEB. 1800.)

The Consuls of the Republic, in conformity with the fifth article of the law of 23 Frimaire, determining the manner in which the constitution shall be presented to the French people, after having heard the report of the ministers of justice, of the interior, of war and the marine,

Proclaim the result of the votes given by the French citizens on the constitutional act.

Of three millions twelve thousand five hundred and sixty-nine voters, fifteen hundred and sixty-two have rejected, three millions eleven thousand and seven accepted the constitution.

SENATUS-CONSULTUM ORGANIC OF THE CONSTITUTION.

16 THERMIDOR, YEAR 10. (4 AUGUST 1802.)

Title I.

Art. 1. Every jurisdiction of a judge of the peace has a cantonal assembly.

2. Every communal arrondissement or district composing a sub-prefecture, has an electoral college of arrondissement.

3. Every department has an electoral college of department.

Title II.—*Of the Cantonal Assemblies.*

4. The assembly of a canton is composed of all the citizens domiciliated in the canton, and enrolled therein on the communal list of arrondissement.

From and after the period when, by the terms of the constitution, the communal lists are to be renewed, the cantonal assembly shall be composed of all the citizens domiciliated in the canton and enjoying there the rights of citizenship.

5. The first consul appoints the president of the cantonal assembly. He holds his office five years, and is always re-eligible. He is assisted by four scrutators, of whom two are the most aged, and the other two the heaviest taxed, of the citizens having a right to vote in the cantonal assembly. The president and the four scrutators appoint the secretary.

6. The cantonal assembly is divided into sections for transacting the business which belongs to it. At the first convocation of every assembly, the organization and forms thereof shall be determined by a regulation issued by the government.

7. The president of the cantonal assembly appoints the presidents of the sections. Their functions terminate with each sectionary assembly. They are assisted each by two scrutators, of whom one is the most aged, and the other the heaviest taxed, of the citizens having a right to vote in the section.

8. The cantonal assembly nominates two citizens, from whom the first consul chooses the judge of the peace for the canton. It nominates in like manner two citizens for each vacant place of supplement of judge of the peace.

9. The judges of the peace and their supplements are appointed for ten years.

10. In cities of 5000 souls, the cantonal assembly presents two citizens for each place in the municipal council. In cities where there are several judges of the peace or several cantonal assemblies, each assembly shall in like manner present two citizens for each place in the municipal council.

11. The members of municipal councils are chosen from each cantonal assembly from a list of a hundred persons, the heaviest taxed in the canton. This list shall be decreed and printed by order of the prefect.

12. The municipal councils are renewed every ten years by one half.

13. The first consul chooses the mayors and assistants in the municipal councils: they are five years in office, and may be re-appointed.

14. The cantonal assembly appoints to the electoral college of arrondissement, the number of members which is assigned to it, in proportion to the number of citizens of which it is composed.

15. It appoints to the electoral college of department, from a list of which mention will be made hereafter, the number of members assigned to it.

16. The members of the electoral colleges must be domiciliated in the respective arrondissements and departments.

17. The government convokes the cantonal assemblies, fixes the time of their sitting, and the object of their meeting.

Title III.—*Electoral Colleges.*

18. The electoral colleges of arrondissement have a member for every 500 inhabitants domiciliated in the arrondissement. The number of members however cannot exceed 200, nor be less than 120.

19. The electoral colleges of department have one member for every thousand inhabitants domiciliated in the department. These members however cannot exceed 300, nor be less than 200 in number.

20. The members of the electoral colleges are for life.

21. If a member of an electoral college be denounced to the government, as having permitted any act contrary to the dictates of honour or the interests of his country, the government invites the college to express its wishes on the subject. A majority of three-fourths is necessary to exclude the denounced member from his seat in the college.

22. A place in the electoral colleges is lost for the same causes which subject a person to the loss of his rights of citizenship. It is equally lost when, without legal impediment, a member shall not have been present at three successive meetings.

23. The first consul appoints the presidents of the electoral colleges at each session. The president has alone the police of the electoral college when assembled.

24. The electoral colleges, at each session, appoint two scrutators and a secretary.

25. For forming the electoral colleges of department, there shall be prepared in each department, under the orders of the minister of finance, a list of 600 citizens, the heaviest assessed on the rolls of the land-tax, the tax on moveables, the tax on luxury, and the tax on licenses. To the amount of the contribution in the domicil of the department, is added that which can be proved paid in other parts of the territory of France and its colonies. This list shall be printed.

26. The cantonal assembly chooses from this list the members it has to appoint to the electoral college of the department.

27. The first consul may add to the electoral colleges of arrondissement ten members, chosen either from among the citizens belonging to the legion of honour, or from such as have rendered services. He may add to each electoral college of department twenty citizens ; ten being taken from the thirty heaviest taxed persons of the department, and ten being members of the legion of honour, or citizens who have rendered services. The first consul is not subject, with respect to these nominations, to any determinate periods of time.

28. The electoral colleges of arrondissement, present to the first consul two citizens domiciliated in the arrondissement, for every vacancy in their council. Of these two citizens one at least must not be a member of the electoral college which nominates him. The councils of arrondissement are renewed every five years by one-third.

29. The electoral colleges of arrondissement at every meeting, present two citizens for forming part of the list from which the members of the tribunate are to be chosen. One, at least, of these citizens must not be a member of the college which presents him. Both may be chosen from without the limits of the department.

30. The electoral colleges of department present to the

first consul two citizens, domiciliated in the department, for each vacant place in the general council of the department. One, at least, of these citizens must not be a member of the college which presents him. The general councils of department are renewed by a third every five years.

31. The electoral colleges of department, at each meeting, present two citizens for forming the list from which the members of the senate are appointed. One, at least, must be taken from without the college which presents him, and both may be taken out of the limits of the department. They must have the age and qualifications required by the constitution.

32. The electoral colleges of department and arrondissement present each two citizens domiciliated in the department, towards forming the list from which the members of the deputation to the legislative body are to be appointed. One of these citizens cannot be a member of the college which presents him. There must be three times as many different candidates on the list formed by the united presentations of the electoral colleges of department and of arrondissement, as there are vacant places.

33. The same person may be member of a communal council, and of an electoral college of arrondissement or of department. He may be at the same time member of a college of arrondissement and of a college of department.

34. The members of the legislative body and tribunate cannot be present at the sittings of the electoral college to which they belong. All other public functionaries have a right to be present and give their votes therein.

35. No cantonal assembly can proceed to fill up vacancies in an electoral college, before the places in its appointment, are reduced to two-thirds.

36. The electoral colleges do not assemble except in pursuance of an act of convocation issued by the government, and in such place as is assigned them. They can engage in

no other business than that for which they are convoked, or continue their session beyond the time fixed by the act of convocation. If they transgress these bounds, the government has a right to dissolve them.

37. The electoral colleges cannot, either directly or indirectly, under any pretence whatever, correspond with each other.

38. The dissolution of an electoral body leads to the renewal of all its members.

Title IV.—*Of the Consuls.*

39. The consuls are for life. They are members of the senate and preside over it.

40. The second and third consuls are appointed by the senate, on the presentation of the first.

41. For this purpose, when one of the two places falls vacant, the first consul presents to the senate a first subject. If not appointed, he presents a second. If the second be not accepted, he presents a third, who is necessarily appointed.

42. When the first consul thinks fit, he presents a citizen to succeed him at his death, in the forms laid down in the preceding article.

43. The citizen appointed to succeed the first consul takes an oath to the republic, which is administered by the first consul, assisted by the second and third consuls, and in the presence of the senate, the ministers, the council of state, the legislative body, the tribunate, the tribunal of cassation, the archbishops, bishops, the presidents of the tribunals of appeal, the presidents of electoral colleges, the presidents of the cantonal assemblies, the great officers of the legion of honour, and the mayors of the twenty-four chief towns of the republic.

The secretary of state draws up the procès-verbal of the administration of the oath.

44. It is conceived in the following terms :—

“ I swear to maintain the constitution, to respect liberty
“ of conscience, to oppose the revival of feudal institutions,
“ never to wage war unless for the defence and glory of the
“ republic, and to employ the power with which I shall be
“ invested, solely for the happiness of the people of whom,
“ and for whom, I shall have received it.”

45. The oath being administered, he takes his seat in the senate, immediately after the third consul.

46. The first consul may deposit in the archives of the government, his wish as to the nomination of his successor, to be presented to the senate after his death.

47. In this case he calls the second and third consuls, the ministers and the presidents of the sections of the council of state. In their presence, he commits to the secretary of state the document, sealed with his seal, in which his wish is recorded. This paper is subscribed by all those who are present at the transaction. The secretary of state in presence of the ministers and presidents of the sections of the council of state, deposits it among the archives of the government.

48. The first consul may withdraw the document thus deposited, observing the formalities laid down in the preceding article.

49. After his death, should the instrument containing his wish, be still in deposit, it is withdrawn from the archives of the government by the secretary of state, in the presence of the ministers and presidents of the sections of the council of state ; its authenticity and identity being proved in the presence of the second and third consuls. It is addressed to the senate by a message from the government, with a copy of the *procès-verbaux* attesting its deposit, identity and authenticity.

50. If the person presented by the first consul be not appointed, the second and third consuls each present one : in

case of no appointment being made, they each present another, and one of these two is necessarily appointed.

51. If the first consul leave no presentation, the second and third consuls respectively, make their first and second presentations, and if neither be appointed, a third. The senate necessarily appoints on the third presentation.

52. In every case, the presentations and appointment must be completed within twenty-four hours after the death of the first consul.

53. The law fixes the estimate of the expenses of government for the life of every first consul.

Title V.—*Of the Senate.*

54. The senate regulates by a *senatus-consultum organic*, 1st. The constitution of the colonies ; 2d. Every thing which has not been provided for by the constitution, and which is necessary to its progress ; 3d. It explains such articles of the constitution as give rise to different interpretations.

55. The senate, by acts entitled *senatus-consulta*, 1st. Suspends for five years the functions of jurymen in departments where this measure is necessary ; 2d. Proclaims, when circumstances require it, certain departments out of the protection of the constitution ; 3d. Determines the period within which individuals arrested in virtue of Article 46 of the constitution, must be brought before the tribunals, when this has not been done within ten days after their arrest ; 4th. Annuls the judgments of tribunals, when such judgments are calculated to endanger the safety of the state ; 5th. Dissolves the legislative body and tribunate ; 6th. Appoints the consuls.

56. *Senatus-consulta organic*, and *senatus-consulta* are deliberated upon by the senate, on the initiative of the government. A *senatus-consultum* is passed by a simple majority ; but for a *senatus-consultum organic*, a majority of two-thirds the members present is requisite.

57. The project of a senatus-consultum framed in pursuance of Art. 54 and 55, is discussed in a privy council composed of the consuls, two ministers, two senators, two counsellors of state, and two great officers of the legion of honour. The first consul appoints at each meeting the members who are to compose the privy council.

58. The first consul ratifies treaties of peace and alliance, after having taken the advice of the privy council. Before promulgating, he communicates them to the senate.

59. The act of nomination of a member of the legislative body, of the tribunate and of the tribunal of cassation, is entitled *arrêté*.

60. The acts of the senate relative to its police and internal administration, are entitled *deliberations*.

61. In course of the year 11, fourteen citizens shall be nominated to complete the number of eighty senators determined by Art. 15 of the constitution. This nomination shall be made by the senate, on the presentation of the first consul; who, for this presentation, and for the ulterior presentations in the number of eighty, shall select three persons from the list of the citizens designated by the electoral colleges.

62. The members of the great council of the legion of honour, whatever be their age, are members of the senate.

63. The first consul, moreover, may appoint to the senate, without any previous presentation by the electoral colleges of department, citizens distinguished for their services and talents; on condition, however, that they have attained the age required by the constitution, and that the number of senators shall not, in any case, exceed one hundred and twenty.

64. The senators are eligible as consuls, ministers, members of the legion of honour, inspectors of public instruction, and may be employed in extraordinary and temporary missions.

65. The senate every year appoints two of its members to discharge the functions of secretaries.

66. The ministers have a seat in the senate, but unless senators, have no deliberative voice.

Title VI.—*Of the Counsellors of State.*

67. The council of state shall never exceed fifty in number.

68. The council of state is divided into sections.

69. The ministers have rank, a seat, and a deliberative voice in the council of state.

Title VII.—*Of the Legislative Body.*

70. Each department shall have in the legislative body a number of members proportioned to the extent of its population, conformably to the table annexed to the present senatus-consultum.

71. All the members of the legislative body belonging to the same deputation, are appointed at the same time.

72. The departments of the republic are divided into five series, conformably to the table annexed to the present senatus-consultum *.

73. The deputies now composing the legislative body are classed in the five series.

74. They shall be renewed in the year to which the series, including the department to which they are attached, shall be referred.

75. Nevertheless, the deputies appointed in the year 10, shall complete their five years.

76. The government convokes, adjourns, and prorogues the legislative body.

* See the general table of the number of deputies, according to the different constitutions, printed at the end of the law on elections of 29 June, 1820.

Title VIII.—*Of the Tribunal.*

77. From and after the year 13, the tribunate shall be reduced to fifty members. One half of the fifty reduced, shall go out every three years; and, until this reduction be completed the members going out shall not be replaced. The tribunate is divided into sections.

78. The legislative body and the tribunate are wholly renewed when the senate pronounces their dissolution.

Title IX.—*Of Justice and the Tribunals.*

79. There is a grand judge minister of justice.

80. He has a distinguished place in the senate and in the council of state.

81. He presides in the tribunal of cassation, and in the tribunals of appeal, when the government thinks proper.

82. He has over the tribunals, courts of jurisdiction of the peace, and the members composing them, the right of watching over and reprimanding them.

83. The tribunal of cassation when the grand judge presides over it, has the right of censure and discipline over the tribunals of appeal and the criminal tribunals: it may, upon weighty occasions, suspend the judges from their functions, and order them before the grand judge, to render to him an account of their conduct.

84. The tribunals of appeal have the right of superintendence over the civil tribunals within their jurisdiction, and the civil tribunals over the judges of the peace within their arrondissement.

85. The commissioner of government in the tribunal of cassation watches over the commissioners in the tribunals of appeal and the criminal tribunals. The commissioners in the tribunals of appeal watch over the commissioners in the tribunals of the first instance.

86. The members of the tribunal of cassation are ap-

pointed by the senate, on the presentation of the first consul. The first consul presents three candidates for each vacant place.

Title X.—*Right of Pardoning.*

87. The first consul has the right of granting pardon. He exercises it after having heard a privy council composed of the grand judge, two ministers, two senators, two counsellors of state, and two members of the tribunal of cassation.

The present *senatus-consultum* shall be transmitted, by message, to the consuls of the republic.

ESTABLISHMENT OF THE IMPERIAL GOVERNMENT.

THE consular government augmented the power, and diminished the liberty of the nation. Was this system introduced solely with the view of preventing the disorders which had arisen from the too democratical character of the institutions hitherto established? This may be doubted; and the man under whose influence the constitution was framed, is well enough known to justify the opinion that his thoughts were less directed to the suppression of anarchy than the establishment of despotism. In fine, whether he had already conceived the designs which he afterwards executed, or the desire of augmenting his power kept pace with its increase, he now advanced with rapid strides to the imperial throne.

For the attainment of his object, Bonaparte employed seduction and violence by turns. He permitted the senators to accumulate different employments; and, when that body opposed his measures, which, as we well know, was but rarely the case, he contrived an appeal to the people, whose suffrages he knew how to manage. Such, for example, was the course he adopted to get himself appointed *consul for life*, in the month of Fructidor, year 10.

This first step was followed by new attempts equally happy; and, on the 16th Thermidor, year 10, (4th of August, 1802,) appeared a *senatus-consultum organic*, which *modified* or rather *changed* the constitution. Of this, it is sufficient to observe, that the constitution did not confer on the senate the right which it assumed of every day establishing new constitutional ordinances; and that this distinction of *senatus-consulta organic*, and *senatus-consulta*, was established by this identical *senatus-consultum* of the 16th Thermidor.

This privilege of the senate was an instrument of which Napoleon well knew how to avail himself. It was not enough for him to make a frequent use of it ; he abused it, and extended it beyond all measure. To be convinced of this we have only to refer to Art. 54 of the *senatus-consultum organic of 1802*. By the terms of that article, the senate, by *senatus-consulta organic* was only authorized to *regulate what had not been provided for by the constitution, and was necessary to its progress, and to explain such articles of the constitution as should give rise to different interpretations*. But, did the senate regulate what had not been provided for by the constitution, or explain its obscure articles, when, by the *senatus-consultum* of the 28th Floreal, year 12, it substituted the monarchical for the consular government ?

From that period indeed even the forms of liberty were no longer preserved. The appointments of the electoral colleges were ruled by the government, and the caprices of the emperor were indiscriminately sanctioned. It has been said that the number of those who voted in the senate against the orders of their master, never exceeded fourteen*. The tribunate, however, still subsisted. This institution was found too liberal ; and a *senatus-consultum* of the 19th of August 1807, suppressed it. Three commissions formed in the legislative body were alone invested with the privilege of discussing laws *in secret* ; and finally, by a fresh innovation, the age of forty years complete was required to render a person eligible to the legislative body.

It would be useless here to retrace the series of arbitrary and despotic acts by which the French nation was reduced to the most ignominious servitude. Of late, every thing was regulated in a sovereign manner by imperial decrees.

* M. Lanjuinais

The victories of Napoleon greatly contributed to make his despotism supportable. The French nation suffers itself to be easily seduced by the eclat of military glory. The excesses of the Revolution, also, had disposed it to submit to the yoke, and Napoleon knew too well how to profit of the fear which anarchy inspired, to effect the destruction of liberty.

SENATUS-CONSULTUM ORGANIC.

28 FLOREAL, YEAR XII, (18 MAY, 1804).

Title First.

ART. 1. The government of the republic is intrusted to an emperor, who takes the title of *Emperor of the French*.

Justice is administered in the name of the emperor, by officers whom he appoints.

2. Napoleon Bonaparte, now first consul of the republic, is *Emperor of the French*.

Title II.—*Of the Succession to the Throne.*

3. The imperial dignity is hereditary in the direct, natural, and legitimate descent of *Napoleon Bonaparte*, from male to male, in the order of primogeniture, and to the perpetual exclusion of females and their descendants.

4. Napoleon Bonaparte may adopt the children or grand children of his brothers, provided they have attained the age of eighteen years complete, and that he himself has no male children at the moment of adoption. His adopted sons enter into the line of his direct descent. If he have any male children after the adoption, his adopted children can only be called to the throne after his natural and legi-

timate offspring. Adoption is forbidden the successors of Napoleon Bonaparte, and their descendants.

5. In default of natural and legitimate heir, or adopted heir of *Napoleon Bonaparte*, the imperial dignity devolves and goes to *Joseph Bonaparte* and his natural and legitimate descendants, in the order of primogeniture, from male to male, to the perpetual exclusion of females and their descendants.

6. In default of *Joseph Bonaparte* and his male descendants, the imperial dignity devolves and goes to *Louis Bonaparte*, and to his natural and legitimate descendants, in the order of primogeniture, from male to male, and to the perpetual exclusion of females and their descendants.

7. In default of natural and legitimate heir or of adopted heir of *Napoleon Bonaparte*; in default of natural and legitimate heirs of *Joseph Bonaparte* and of his male descendants; of *Louis Bonaparte* and his male descendants, a senatus-consultum organic proposed to the senate by the titularies of the great dignities of the empire, and submitted to the acceptance of the people, appoints the emperor, regulating the order of succession in his family, from male to male, to the perpetual exclusion of females and their descendants.

8. Until the election of the new emperor be completed, the ministers, forming themselves into a council of government and deciding by the majority of votes, conduct the affairs of the state. The secretary of state keeps the register of their deliberations.

Title III.—*Of the Imperial Family.*

9. The members of the imperial family, in the order of succession, bear the title of *French princes*.

The eldest son of the emperor bears that of *prince imperial*.

10. A senatus-consultum regulates the manner in which the French princes shall be educated.

11. On attaining their eighteenth year, they become members of the senate and council of state.

12. They cannot marry without the consent of the emperor. The marriage of a French prince, without the consent of the emperor, incurs forfeiture of all right to the succession, as well for him who has contracted it, as for his descendants. Nevertheless, if no children arise from a marriage of this kind, and it come to be dissolved, the prince who had contracted it recovers his rights to the succession.

13. The instruments which attest the births, marriages and deaths of members of the imperial family, are transmitted, upon an order from the emperor, to the senate, which body directs them to be transcribed on its registers and deposited among its archives.

14. *Napoleon Bonaparte*, by statutes to which his successors are bound to conform, establishes ; 1st. The duties of individuals of both sexes, members of the imperial family, towards the emperor ; 2d. An organization of the imperial palace, conformable to the dignity of the throne and the grandeur of the nation.

15. The civil list remains on the footing established by articles 1 and 4 of the decree of 26 May 1791.

The French princes *Joseph* and *Louis Bonaparte*, and for the future, the younger natural and legitimate sons of the emperor, shall be provided for conformably to Articles 1, 10, 11, 12 and 13 of the decree of the 21 December 1790.

The emperor may fix the jointure of the empress, and charge it on the civil list : his successors shall not have the power of making any alteration in the arrangements which he may make on this subject.

16. The emperor visits the departments : consequently, imperial palaces are established in the four principal points

of the empire. These palaces are pointed out, and their dependencies determined by a law.

Title IV.—*Of the Regency.*

17. The emperor is a minor until the age of eighteen years complete. During his minority, there is a regent of the empire.

18. The regent must be at least twenty-five years of age complete. Females are excluded from the regency*.

19. The emperor appoints the regent from among the French princes who are of the age required by the preceding article ; and in default of them, from among the titularies of the great dignities of the empire.

20. In default of appointment by the emperor, the regency is conferred on the prince nearest related to the throne in the order of succession, and who is twenty-five years of age complete.

21. When the regent is not appointed by the emperor, and none of the French princes are of the requisite age, the senate elects the regent from among the titularies of the great dignities of the empire.

22. If, on account of the prince called in the order of succession to the regency being under the requisite age, the regency has been conferred on a more distant relation, or on one of the titularies of the great dignities of the empire, the regent, once entered on the functions of his office, shall continue to discharge them until the majority of the emperor.

23. No senatus-consultum organic can be passed during the regency, nor before the end of the third year after the majority.

24. The regent, until the majority of the emperor, exercises all the attributes of the imperial dignity. Neverthe-

* A Senatus-consultum passed in 1813, calls females to the regency.

less, he cannot nominate to the great dignities of the empire, to the great offices which may be vacant at the epoch of the regency or which may fall vacant during the minority: neither can he exercise the prerogative reserved to the emperor, of elevating citizens to the rank of senator. He cannot dismiss from office either the grand judge or the secretary of state.

25. He is not personally responsible for the acts of his administration.

26. All the acts of the regency are in the name of the minor emperor.

27. The regent can propose no project of a law or senatus consultum, or adopt any rule of public administration, until he has taken the advice of the council of regency, composed of the titularies of the great dignities of the empire. He cannot declare war, or sign treaties of peace, alliance or commerce, until these measures have been resolved upon in the council of regency, of which the members, on this single occasion, have a deliberative voice. The resolutions of the council are governed by the majority of votes, and when these are equal, by the opinion of the regent.

The minister for foreign relations takes his seat in the council of regency, when it deliberates upon affairs connected with his department. The grand judge, minister of justice, may be summoned there by order of the regent. The secretary of state keeps a journal of its proceedings.

28. The regency does not confer any right over the person of the minor emperor.

29. The salary of the regent is fixed at one-fourth the amount of the civil list.

30. The guardianship of the minor emperor is intrusted to his mother; and in default of her, to the prince fixed upon by the predecessor of the minor emperor. In default of both these, the senate confides the guardianship to

one of the titularies of the great dignities of the empire. Neither the regent, his descendants, nor females, can be elected to this office.

31. In case Napoleon Bonaparte should exercise the power conferred on him by Art. 4. Title 11, the act of adoption shall be made in presence of the titularies of the great dignities of the empire, be received by the secretary of state, and transmitted immediately to the senate to be transcribed on the journals, and deposited among the archives of that body.

When the emperor nominates either a regent for a minority, or a prince for the guardianship of the minor emperor, the same formalities are observed: either act of appointment, whether of regent or guardian, being revocable at the will of the emperor.

Every act of adoption, appointment, or revocation of appointment, which shall not have been inscribed on the journals of the senate before the decease of the emperor, shall be null and of no effect.

Title V.—*Of the great Dignities of the Empire.*

32. The great dignities of the empire are those of grand elector, arch-chancellor of the empire, arch-chancellor of state, arch-treasurer, constable and grand admiral.

33. The titularies of the great dignities of the empire are appointed by the emperor. They enjoy the same honours as the French princes, and take precedence immediately after them. The period of their reception determines the rank which they respectively occupy.

34. The great dignities of the empire are irremovable.

35. The titularies of the great dignities of the empire are senators and counsellors of state.

36. They form the great council of the emperor; are members of the privy council, and compose the great council of the legion of honour. The present members of the great

council of the legion of honour, preserve, for the remainder of their lives, their titles, functions and prerogatives.

37. The senate and the council of state are presided over by the emperor ; or in his absence, by one of the titularies of the great dignities of the empire, appointed by him.

38. All the acts of the senate and legislative body are rendered in the name of the emperor, and promulgated or made public under the imperial seal.

39. The grand-electorexercises the functions of chancellor, 1st. In convoking the legislative body, the electoral colleges and cantonal assemblies ; 2d. In promulgating senatus-consulta declaring the dissolution either of the legislative body or of the electoral colleges. He presides in the emperor's absence, when the senate proceeds to the nomination of senators, legislators or tribunes. He may reside in the palace of the senate. He communicates to the emperor the remonstrances presented by the electoral colleges, or by the cantonal assemblies, with regard to the preservation of their privileges. When a member of an electoral college is denounced, conformably to Art. 21 of the senatus-consultum organic of 16 Thermidor year 10, as having committed any act contrary to honour or his country, the grand-electore invites the college to declare its wishes ; which he communicates to the emperor.

The grand-electorepresents the members of the senate, of the council of state, of the legislative body and the tribunate, when they take an oath to the emperor. He administers the oath to the presidents of the electoral colleges of departments and of cantonal assemblies. He presents the solemn deputations of the senate, the council of state, the legislative body, tribunate and electoral colleges, when admitted to an audience of the emperor.

40. The arch-chancellor of the empire performs the functions of chancellor in promulgating senatus-consulta organic and laws. He performs also the functions of chancellor of

the imperial palace. He is present when the grand judge, minister of justice, lays before the emperor his annual report of the abuses which have crept into the administration of justice, both civil and criminal. He presides in the imperial high court, and also over the united sections of the council of state and tribunate, conformable to Art. 95, Title XI. He is present at the marriages and births of princes, at the coronation and funeral obsequies of the emperor. He signs the procès-verbal framed by the secretary of state.

He presents the titularies of the great dignities of the empire, the ministers and secretary of state, the great civil officers of the crown, and the first president of the court of cassation, when the oath is administered to them in the presence of the emperor. He administers the oath to the members and bar of the court of cassation, to the presidents and attorneys-general of the courts of appeal and criminal courts. He presents the solemn deputations, and the members of the courts of justice, when admitted to an audience of the emperor. He signs and seals the commissions and appointments of the members of the courts of justice and of the ministerial offices: he seals the commissions and warrants of the civil administrative functions, and such other instruments as shall be designated in the regulation declaring the organization of the seal.

41. The arch-chancellor of state performs the functions of chancellor in promulgating treaties of peace and alliance, and in declaring war. He presents to the emperor, and signs the credential letters and correspondence *d'étiquette* with the different courts of Europe, digested according to the forms of the imperial protocol of which he is the guardian. He is present when the minister for foreign relations lays before the emperor his annual report of the political situation of the state. He presents the ambassadors and ministers of the empire in foreign courts, when the oath is administered to them in the presence of his

imperial majesty. He administers the oath to the residents, *chargés d'affaires*, secretaries of embassy and legation, to the commissaries-general and commissaries of commercial relations. He presents the ambassadors extraordinary, ambassadors and ministers, French and foreign.

42. The arch-treasurer is present when the ministers of finance and of the public treasury lay before the emperor the annual accounts of the receipts and expenses of the state, and make known to him their views with regard to the financial wants of the empire.

Before the accounts of the annual receipts and disbursements are laid before the emperor, they must receive his signature.

He receives, every three months, the report of the labours of the national accountants, and every year, the general result and views of reform and amelioration in the different branches of the public accounts, which he lays before the emperor.

He balances, every year, the great book of the public debt.

He signs the warrants for granting civil pensions. He presides over the united sections of the council of state and the tribunate, conformably to Art. 95. Title XI.

He administers the oath to the national accountants, the administrators of finance, and to the principal agents of the public treasury. He presents the deputations from the national accountants and administrators of finance, when admitted to an audience of the emperor.

43. The constable is present when the minister at war, and the director of the war department, lay before the emperor the annual report of the measures to be taken for completing the system of defence on the frontiers, for the maintenance, reparation and provisioning of places.

He lays the first stone of every new fortress.

He is governor of the military schools.

When the emperor does not, in person, present the standards to the corps of the army, the constable does this in his name. He reviews the imperial guard when the emperor is absent. When a general is charged with an offence specified in the penal military code, the constable may preside at the council of war appointed to try him.

He presents the marshals of the empire, the colonels-general, the inspectors-general, the officers-general and colonels of all arms, when the oath is administered to them in presence of the emperor.

He administers the oath to majors, chiefs of battalion and of squadron of all arms.

He installs the marshals of the empire. He presents the officers-general and colonels, majors, chiefs of battalion and of squadron of all arms, when admitted to an audience of the emperor.

He signs the brevets of the army and those of the military pensionaries of the state.

44. The grand-admiral is present when the minister of marine lays before the emperor the annual report of the state of the naval constructions, arsenals and supplies.

He annually receives and presents to the emperor the accounts of the chest of the marine invalids. When an admiral, vice-admiral or rear-admiral, commander-in-chief of a naval force, is arraigned for a crime specified in the maritime penal code, the grand-admiral may preside over the court martial appointed to try him. He presents the admirals, vice-admirals, rear-admirals and captains of vessels, when the oath is administered to them in the presence of the emperor. He administers the oath to the members of the council of prizes and to captains of frigates. He presents the admirals, vice-admirals, rear-admirals, captains of vessels, captains of frigates, and members of the council of prizes, when admitted to an audience of the emperor. He signs the brevets of the

officers of the naval forces, and those of the marines pensioners of state.

45. Each titular of the great dignities of the empire presides over an electoral college of department.

The electoral college sitting at Brussels is presided over by the grand-electors: That at Bourdeaux by the arch-chancellor of the empire: That at Nantz by the arch-chancellor of state: That at Lyons by the arch-treasurer of the empire: That at Turin by the constable: That at Marseilles by the grand-admiral.

46. Each titular of the great dignities of the empire receives annually, under the title of fixed provision, a third of the sum appropriated to the princes, conformably to the decree of the 21st of December, 1790.

47. A statute of the emperor regulates the functions of the titularies of the great dignities of the empire about his person, and determines the costume to be worn by them in grand ceremonies. The successors of the emperor cannot deviate from this statute except by a senatus-consultum.

Title VI.—*The great Officers of the Empire.*

48. The great officers of the empire are: 1st. The marshals of the empire, chosen from among the most distinguished generals. They do not exceed sixteen in number, exclusive of such as are senators. 2dly. Eight inspectors and colonels general of artillery and fortification, of cavalry and the marine. 3dly. Of such great civil officers of the crown as the emperor, by his statutes, shall hereafter institute.

49. The post of great officer is irremovable.

50. Each of the great officers of the empire presides over an electoral college, which is particularly assigned to him at the moment of his appointment.

51. If, by an order from the emperor, or from any other cause whatever, a titular of a great dignity of the empire

or a great officer, terminate his functions, he preserves his title, rank, prerogatives, and a moiety of his salary. He can only forfeit them by a judgment of the imperial high court.

Title VII.—*Of Oaths.*

52. Within two years after his accession or majority, the emperor, accompanied by the titularies of the great dignities of the empire, by the ministers and great officers of the empire, takes an oath to the French people upon the Evangelists, and in the presence of the senate, the council of state, the legislative body, the tribunate, the court of cassation, the archbishops, the bishops, the great officers of the legion of honour, the national accountants, the presidents of the courts of appeal, the presidents of the electoral colleges, the presidents of the cantonal assemblies, the presidents of the consistories, and the mayors of the thirty-six principal towns of the empire.

The secretary of state draws up the procès-verbal of the ceremony.

53. The oath of the emperor is as follows:

“ I swear to maintain the integrity of the territory of
“ the republic ; to respect, and cause to be respected, the
“ laws of the concordat and the freedom of religious wor-
“ ship ; to respect, and cause to be respected, the equality of
“ rights, political and civil liberty, the irrevocability of
“ the sales of national property ; to levy no impost, to
“ establish no tax, except in virtue of a law ; to maintain
“ the institution of the legion of honour ; to govern with a
“ sole view to the interest, the happiness, and the glory of
“ the French people.”

54. Before he enters upon the exercise of his functions, the regent, accompanied by the titularies of the great dignities of the empire, the ministers and the great officers of the empire, takes an oath upon the Evangelists, and in

the presence of the senate, the council of state, the president and quæstors of the legislative body, the president and quæstors of the tribunate, and the great officers of the legion of honour.

The secretary of state prepares the procès-verbal of the ceremony.

55. The oath of the regent is as follows :

“ I swear to administer the affairs of the state, conformably to the constitutions of the empire, to the senatus-consulta and the laws ; to maintain in all their integrity the territory of the republic, the rights of the nation, and those of the imperial dignity ; and faithfully to deliver up to the emperor, at the moment of his majority, the power of which the exercise is confided to me.”

56. The titularies of the great dignities of the empire, the ministers and the secretary of state, the great officers, the members of the senate, of the council of state, of the legislative body, of the tribunate, of the electoral colleges and the cantonal assemblies, take the following oath :

“ I swear obedience to the constitutions of the empire, and fidelity to the emperor.”

The public functionaries, civil and judicial, the officers and soldiers of the land and naval forces, take the same oath.

Title VIII.—*Of the Senate.*

57. The senate is composed ; 1st. Of the French princes who have attained their eighteenth year ; 2d. Of the titularies of the great dignities of the empire ; 3d. Of the eighty members appointed on the presentation of candidates chosen by the emperor from the lists framed by the electoral colleges of department ; 4th. Of citizens whom the emperor thinks proper to raise to the dignity of senators.

In case the number of senators should exceed that fixed

by Art. 63. of the senatus-consultum organic of 16 Thermidor, year 10, a law, in execution of Art. 17. of the senatus-consultum of 14 Nivôse, year 11, shall make the necessary provision.

58. The president of the senate is appointed by the emperor and chosen from amongst the senators. His functions continue for one year.

59. He convokes the senate at the command of the emperor, and on the requisition, either of the commissions of which mention will be hereafter made, (Art. 60 and 64,) or of a senator, conformably to the provisions of Art. 70, or of an officer of the senate, on business relating to the internal affairs of the assembly.

He lays before the emperor an account of the several convocations made on the requisition of the commissions or of a senator, of their object, and of the results of the deliberations of the senate.

60. A commission of seven members appointed by the senate and chosen from that body, takes cognizance, on communications being made by the ministers, of arrests executed in conformance to Art. 46. of the constitution, whenever the arrested persons have not been brought before the tribunals within ten days after their arrest. This commission is called *The Senatorial Commission for Individual Liberty*.

61. All persons arrested and not brought to trial within ten days after their arrest, may have immediate recourse, by themselves, their relations or representatives, or by petition, to *The Senatorial Commission for Individual Liberty*.

62. When the commission is of opinion that the detention prolonged beyond the ten days after the arrest is not justified by the interest of the state, it invites the minister who has ordered such arrest to set the person detained at liberty, or to bring him before the ordinary tribunals.

63. If after three successive invitations, renewed within the space of one month, the person detained be not set at liberty or brought before the ordinary tribunals, the commission demands an assembly of the senate. This is convoked by the president, and issues, if there be room for it, the following declaration :

“ There are strong presumptions that N. is arbitrarily “ detained.”

It then proceeds conformably to the provisions of Art. 112. Title XIII. *Of the Imperial High Court.*

64. A commission of seven members appointed by the senate, and chosen from that body, is charged with watching over the liberty of the press.

Works which are printed and distributed by subscription and periodically, do not fall under its cognizance. This commission is styled *The Senatorial Commission for the Liberty of the Press.*

65. The authors, printers, or booksellers, who think themselves justified in complaining of injunctions being laid upon the printing or circulation of a work, may have recourse immediately, and by petition, to *The Senatorial Commission for the Liberty of the Press.*

66. When the commission is of opinion that the obstruction is not called for by the interest of the state, it invites the minister who issued the order, to revoke it.

67. If, after three successive invitations, renewed within the space of a month, the injunction still continue, the commission demands an assembly of the senate. This is convoked by the president, and issues, if there be room for it, the following declaration :

“ There are strong presumptions that the liberty of the “ press has been violated.”

They then proceed conformably to the provisions of Art. 112. Title XIII. *Of the Imperial High Court.*

68. A member of each senatorial commission terminates his functions every four months.

69. The projects of laws decreed by the legislative body are transmitted to the senate, and deposited in its archives, on the very day of their adoption.

70. Every decree issued by the legislative body may be denounced in the senate, by a senator, 1st, As tending to the restoration of the feudal system ; 2nd, As contrary to the irrevocability of the sales of national property ; 3rd, As not having been passed according to the forms prescribed by the constitutions of the empire, regulations and laws ; 4th, As encroaching on the prerogatives of the imperial dignity, and on those of the senate: without prejudice, however, to the execution of Arts. 21 and 37 of the act on the constitutions of the empire, dated the 22nd Frimaire, year 8.

71. The senate, within six days after the adoption of the project of a law, deliberating upon the report of a special commission, and after having heard the decree read three times at three sittings held on separate days, may express the opinion that there is no room for promulgating the law. The president lays the decision of the senate, with the motives thereof annexed, before the emperor.

72. The emperor, after hearing the council of state, either declares by a decree his adherence to the resolution of the senate, or causes the law to be promulgated.

73. Every law of which the promulgation, under these circumstances, has not been made before the expiration of ten days, cannot be promulgated, unless it has been anew deliberated upon, and adopted by the legislative body.

74. The entire operations of an electoral college, and such partial operations as concern the presentation of candidates to the senate, to the legislative body and tribunate, cannot be annulled on the ground of their being unconstitutional, except by a senatus-consultum.

Title IX.—*Of the Council of State.*

75. When the council of state deliberates upon projects of law, or on regulations of public administration, two thirds of the members of the council in ordinary service, are obliged to be present. The number of counsellors of state present cannot be less than twenty-five.

76. The council of state is divided into six sections; *viz.*, the section of legislation, the section of the interior, the section of finance, the section of war, the section of the marine, and the section of commerce.

77. When a member of the council of state has been during five years upon the list of members of the council in ordinary service, he receives a brevet as counsellor of state for life.

When he ceases to be ranked on the list of the council of state in ordinary or extraordinary service, he is only entitled to a third of the salary of a counsellor of state.

He does not forfeit his title and rights, except by a judgment of the imperial high court, inflicting corporal or infamous punishment.

Title X.—*Of the Legislative Body.*

78. The members of the legislative body, going out, are immediately re-eligible.

79. The projects of law presented to the legislative body, are returned to the three sections of the tribunate.

80. The sittings of the legislative body are distinguished into ordinary sittings and general committees.

81. Ordinary sittings are composed of the members of the legislative body, the orators of the council of state, and the orators of the three sections of the tribunate. General committees are composed of the members of the legislative body only. The president of the legislative body presides both at ordinary sittings, and at general committees.

82. At an ordinary sitting, the legislative body hears the orators of the council of state, and those of the three sections of the tribunate, and votes on the project of law. In a general committee the members of the legislative body discuss between them the merits or demerits of the project of law.

83. The legislative body resolves itself into a general committee, 1st. On an invitation from the president, for business relating to the internal affairs of the assembly ; 2d. On a demand addressed to the president, and signed by fifty of the members present ; 3d. On a demand from the orators of the council of state, particularly authorized for this purpose. In the two former cases the general committee is secret, and the discussions can be neither printed nor made public—in the latter case it is necessarily public.

No resolution can be passed in a general committee.

84. When the discussion in a general committee is closed, the resolution is adjourned to an ordinary sitting on the following day.

85. The legislative body, on the day appointed for voting on the project of law, and in the same sitting, gives a hearing to the orators of the council of state, who sum up their arguments on the subject of discussion.

86. The resolution on a project of law cannot in any case be deferred longer than three days after that fixed for closing the discussion.

87. The sections of the tribunate constitute the only commissions of the legislative body ; nor can this body form any other except in the case laid down in Art. 113, Title XIII. *Of the Imperial High Court.*

Title XI.—*Of the Tribunate.*

88. The functions of the members of the tribunate continue for ten years.

89. The tribunate is renewed by one-half every five years. The first renewal shall take place for the session of the year 17, conformably to the *senatus-consultum organic* of the 16th Thermidor, year 10.

90. The president of the tribunate is appointed by the emperor, on the presentation of three candidates chosen by the tribunate by secret scrutiny, and by an absolute majority of votes.

91. The functions of the president of the tribunate continue for two years.

92. The tribunate has two quæstors. They are appointed by the emperor, from a triple list of candidates chosen by the tribunate by secret ballot, and by an absolute majority of votes. Their functions are the same as those attributed to the quæstors of the legislative body by Articles 19, 20, 21, 22, 23, 24, and 25 of the *senatus-consultum organic* of the 24th Frimaire, year 12. One of the quæstors is renewed annually.

93. The tribunate is divided into three sections ; namely, the section of legislation, the section of the interior, and the section of finance.

94. Each section frames a list of three members, and from these the president of the tribunate appoints the president of the section. His functions continue a year.

95. When the respective sections of the council of state and tribunate demand a conference, it takes place under the presidency of the arch-chancellor, or arch-treasurer of the empire, according to the nature of the subjects to be discussed.

96. Each section discusses separately, and as a sectional assembly, the projects of law transmitted to it by the legislative body. Two orators from each section lay before the legislative body the opinion of their section, and explain the motives for it.

97. In no case can projects of law be discussed by the

tribunate in a general assembly. It meets as a general assembly under its president, for the exercise of the other powers assigned to it.

Title XII.—*The Electoral Colleges.*

98. Whenever an electoral college of department meets for the purpose of forming the list of candidates for the legislative body, the lists of candidates for the senate are renewed. Every renewal annuls all anterior presentations.

99. The great officers, commanders, and officers of the legion of honour, are members of the electoral college of the department in which they have their domicile, or of one of the departments of the cohort to which they belong. The legionaries are members of the electoral college of their arrondissement. The members of the legion of honour are admitted to the electoral college of which they are to form a part, on presenting a brevet delivered to them for this purpose by the grand elector.

100. The prefects and military commanders of departments cannot be elected candidates for the senate by the electoral colleges of the departments in which they exercise their functions.

Title XIII.—*Of the Imperial High Court.*

101. An imperial high court takes cognizance,

1st. Of personal offences committed by members of the imperial family, by titularies of the great dignities of the empire, by the ministers and secretary of state, by great officers, senators, and counsellors of state ; 2d. Of crimes, outrages, and plots, against the internal and external safety of the state, the person of the emperor, and that of the heir presumptive to the throne ; 3d. Of *offences of official responsibility* committed by ministers and counsellors of state, particularly charged with a part of public administration ; 4th. Of prevarications and abuses of power com-

mitted, either by captains-general of colonies, by colonial prefects and commanders of French settlements out of the continent, or by administrators-general extraordinarily employed, or by land and naval generals, without prejudice with regard to these last, to the prosecutions of the military jurisdiction, in the cases determined by the laws ; 5th. Of the disobedience of land and naval generals who act contrary to their instructions ; 6th. Of acts of extortion and dilapidation committed by prefects of the interior in the exercise of their functions ; 7th. Of forfeitures or prosecutions for injustice which may be incurred by a court of appeal, a court of criminal justice, or by members of the court of cassation ; 8th. Of denunciations on account of arbitrary detention and violation of the liberty of the press.

102. The seat of the imperial high court is in the senate.

103. It is presided over by the arch-chancellor of the empire ; and when ill, absent, or legally prevented, by another titular of a great dignity of the empire.

104. The imperial high court is composed of the princes, the titularies of the great dignities, and the great officers of the empire, of the grand judge, minister of justice, sixty senators, six presidents of the sections of the council of state, fourteen counsellors of state, and twenty members of the court of cassation. The senators, counsellors of state, and members of the court of cassation, are summoned in the order of seniority.

105. An attorney-general, appointed for life by the emperor, is attached to the imperial high court. He discharges the functions of his office, assisted by three tribunes, who are annually appointed by the legislative body from a list of nine candidates presented by the tribunate, and by three magistrates, annually appointed by the emperor, from among the officers of the courts of appeal or criminal justice.

106. A registrar in chief, appointed for life by the emperor, is attached to the imperial high court.

107. The president of the imperial high court can never be made liable to exception: he may, on legitimate grounds, abstain from giving judgment.

108. The imperial high court can only act on the prosecutions of the public ministry, for offences committed by those whose rank renders them amenable to the court: where there is a plaintiff, the public ministry necessarily becomes a joint and prosecuting party, and proceeds as is hereafter laid down.

The public ministry is also a joint and prosecuting party in the case of forfeiture, or when a tribunal is prosecuted on a charge of unjust partiality.

109. The magistrates for public safety, and the directors of juries, are obliged to stop proceedings, and to transmit to the attorney-general attached to the imperial high court, within eight days, all the instruments of the procedure, when, in the offences of which they prosecute the satisfaction, it turns out, either from the rank of the persons, from the title of accusation, or from other circumstances, that the affair falls within the jurisdiction of the imperial high court.

Notwithstanding, the magistrates for public safety continue to collect the proofs and traces of the offence.

110. The ministers or counsellors of state charged with any part whatever of the public administration, may be denounced by the legislative body, if they have given orders contrary to the constitutions and laws of the empire.

111. The legislative body has an equal right to denounce, the captains-general of colonies, the colonial prefects, the commanders of French settlements out of the continent, and the administrators-general, when any of these officers have prevaricated, or abused their power; also, land or naval generals who have disobeyed their instructions, and

prefects of the interior who have rendered themselves guilty of dilapidation or extortion.

112. The legislative body denounces, in like manner, the ministers or agents of authority, whenever the senate reports to it, that there are strong evidences of arbitrary detention, or of the violation of the liberty of the press.

113. The legislative body cannot make a denunciation of this kind unless on a demand from the tribunate, or on the requisition of fifty members for a secret committee, in order that it may appoint ten of its members to draw up the project of denunciation.

114. In both cases, the demand or requisition must be made in writing, and signed by the president and secretaries of the tribunate, or by ten members of the legislative body.

Should it be directed against a minister, or counsellor of state charged with a part of the public administration, it is communicated to him within a month.

115. The minister or counsellor of state who is denounced, does not appear in person for the purpose of answering the charges against him. The emperor appoints three counsellors of state to attend the legislative body on the day appointed, and to afford information on the facts contained in the denunciation.

116. The legislative body discusses, in a secret committee, the facts comprised in the demand or requisition, and decides thereon by ballot.

117. The act of denunciation must be circumstantial, and signed by the president and secretaries of the legislative body. It is addressed, by a message, to the arch-chancellor of the empire, and this officer transmits it to the attorney-general in the imperial high court.

118. The offences noticed in Article 111 are also denounced by the ministers, each in his department, to the officers charged with the public ministry. Should this be

done by the grand judge, minister of justice, he can neither be present, nor take any part in the trials which result from his denunciation.

119. In the cases determined by Arts. 110, 111, 112 and 118, the attorney-general, within the period of three days, informs the arch-chancellor of the empire that there is room for assembling the imperial high court. The arch-chancellor, having taken the emperor's orders, gives directions for the opening of the court within eight days.

120. At the first sitting of the imperial high court, it determines its competency to enter upon the case before it.

121. In cases of denunciation or complaint, the attorney general,^f in concert with the tribunes and three magistrates, officers of the bar, examines if there be room for a prosecution.

The decision rests with the attorney-general, by whom also one of the magistrates of the bar may be charged with directing the prosecution.

If the public ministry is of opinion that the complaint or denunciation ought not to be admitted, it moves certain resolutions to that effect, and on these the imperial high court, after having heard the magistrate charged with the report, pronounces.

122. When the resolutions are adopted, the imperial high court terminates the affair by a definitive judgment. When they are rejected, the public ministry is bound to continue proceedings.

123. In the second case provided for by the preceding article, and also when the public ministry is of opinion that the complaint or denunciation ought to be admitted, it is bound to draw up the act of accusation within eight days, and to communicate the same to the commissioner and supplement appointed by the arch-chancellor of the empire from among the judges of the court of cassation who are

members of the imperial high court. The functions of this commissioner, and in his default, of the supplement, consist in drawing up the charge and report.

124. The reporter, or his supplement, lays the act of accusation before twelve commissioners of the imperial high court, chosen by the arch-chancellor of the empire ; six from among the senators, and six from the other members of the court. The members chosen take no part in the judgment of the imperial high court.

125. If the twelve commissioners decide that there is room for accusation, the reporting commissioner issues a declaration to that effect, orders writs of arrest, and proceeds to the trial.

126. If, on the contrary, the commissioners are of opinion that there is no room for accusation, the business is referred by the reporter to the imperial high court, which pronounces definitively.

127. This court cannot exercise judgment unless at least sixty members are present. Ten of the whole number called to compose it may be challenged by the accused, without assigning his motives, and ten by the public party. The judgment of the court is determined by the majority of votes.

128. The debates and sentence are public.

129. The accused have counsel : if they are not present, the arch-chancellor of the empire grants it to them officially.

130. The imperial high court can only pronounce punishments enacted by the penal code. It has power, when there is room for it, to condemn to damages and costs.

131. When it acquits, it may place those who are absolved under the superintendency, or at the disposition of the high police of the state, for the time which it thinks proper.

132. The sentences rendered by the imperial high court

are not subject to any appeal. Those which condemn to corporal or infamous punishment, cannot be carried into execution until they have been signed by the emperor.

133. A particular senatus-consultum contains the remaining provisions, relative to the organization and proceedings of the imperial high court.

Title XIV.—*Of the judicial Order.*

134. The judgments of the courts of justice are intituled *Arrets*.

135. The presidents of the courts of cassation, of the courts of appeal, and of criminal justice, are appointed for life by the emperor, and are not necessarily chosen from the courts over which they are to preside.

136. The tribunal of cassation takes the title of the *court of cassation*: the tribunals of appeal, that of *courts of appeal*: the criminal tribunals, that of *courts of criminal justice*.

The president of the courts of cassation and that of the courts of appeal, divided into sections, take the title of *first president*. The vice-presidents take that of *presidents*. The commissioners of government attached to the court of cassation, to the courts of appeal and criminal justice, take the title of *imperial attorneys-general*. The commissioners of government attached to the other tribunals, take the title of *imperial attorneys*.

Title XV.—*Of Promulgation.*

137. The emperor causes to be sealed and promulgated the senatus-consulta organic, senatus-consulta, the acts of the senate, and laws: the three former within ten days, at farthest, after they have passed.

138. Two original copies are made of each act mentioned in the preceding article. Both are signed by the emperor, attested by one of the titularies of the great dignities, each

according to his rights and attributes, countersigned by the secretary of state and the minister of justice, and sealed with the great seal of state.

139. One of these copies is deposited in the archives of the seal, and the other committed to the archives of the public authority whence the act originated.

140. The promulgation is conceived in the terms following:—

“ N. (*the name of the emperor*) by the grace of God, and
“ the constitutions of the republic, emperor of the French,
“ to all present and to come, GREETING :

“ The senate, after having heard the orators of the
“ council of state, has decreed, and we ordain as follows :

“ (*And if a law*) The LEGISLATIVE BODY, in con-
“ formance to the proposition made in the name of the
“ emperor, and, after having heard the orators of the
“ council of state, and of the sections of the tribunate, has
“ issued (*mentioning the date*) the following decree :—

“ We command and ordain, that these presents, furnished
“ with the seals of state, inserted in the bulletin of the laws,
“ be addressed to the courts, tribunals and administrative
“ authorities, in order that they may inscribe them in their
“ registers, observe them, and cause them to be observed ;
“ the grand judge, minister of justice, being charged with
“ watching over the publication of the said presents.”

141. The warrants in execution of judgments, are drawn up as follows ;—

“ N. (*the name of the emperor*) by the grace of God, and
“ the constitutions of the republic, emperor of the French,
“ to all present, and to come, GREETING :

“ The court of ———, or the TRIBUNAL of ———,
“ (*if it be a tribunal of the first instance*) has issued the
“ judgment following :—

“ (*Here follows a copy of the judgment.*)

“ We command and ordain all bailiffs on this requisi-

“ tion, to put the said judgment in execution, to our at-
“ torneys general, and attorneys attached to the tribunals
“ of the first instance, to lend their assistance ; and to all
“ commanders and officers of the public force to use the
“ power intrusted to them in aid of the same, when legally
“ required.

“ In testimony of which the present judgment has been
“ signed by the president of the court or tribunal, and by
“ the registrar.”

Title XVI.

142. The following proposition shall be presented to the acceptance of the people in the form determined by the decree of the 20th Florial, year 10 :—

“ The people wills the imperial dignity to be hereditary
“ in the direct, natural, legitimate and adopted descent of
“ *Napoleon Bonaparte*, and in the direct, natural and le-
“ gitimate descent of *Joseph Bonaparte* and of *Louis Bo-*
“ *naparte*, as regulated by the senatus-consultum organic
“ of that day.”

ACT ADDITIONAL

TO THE CONSTITUTIONS OF THE EMPIRE, GIVEN BY THE EMPEROR
 NAPOLEON BONAPARTE*, 22 APRIL, 1815.

Napoleon, by the grace of God and the constitutions,
emperor of the French, to all present and to come, GREETING.

Called fifteen years since by the will of France to the government of the state, we have endeavoured at different periods to improve the constitutional forms, according to the wants and wishes of the nation, and by profiting from the lessons of experience. The constitutions of the empire are thus formed of a series of acts which have been sanctioned by the acceptance of the people. We had then in view the organizing a grand European federative system, which we had adopted, as conformable to the spirit of the age, and favourable to the progress of civilization. In pursuit of this object, and in order to give the said system all the extent, and all the stability of which it was susceptible, we put off the establishment of several internal institutions, more particularly calculated to protect the liberty of the citizen. Henceforward, we have no other object than to increase the prosperity of France, by giving strength and security to public freedom. To effect this, several important modifications in the constitutions, senatus-consulta, and other acts which govern the empire, are necessary.

FOR THESE CAUSES, therefore, willing on the one hand to preserve of the past what is good and salutary, and on the other, to render the constitutions of our empire every way conformable to the wants and wishes of the nation, as well

* This act, in chronological order, should be placed after the charter, but it is put here in order that all the acts which formed the constitutions of the empire might appear together.

as to the state of peace which we are desirous to maintain with Europe, we have resolved to offer to the people a series of provisions, calculated to modify and improve the constitutional acts, to afford security to the rights of citizens, to give to the representative system all the extension it is capable of, to invest the intermediary bodies with the consideration and power necessary to them—in one word, to unite the highest point of political liberty and individual security, with the strength and centralization which are necessary to make the independence of the French people, and the dignity of our crown, respected by foreigners. In consequence, the following articles, forming an act supplementary to the constitutions of the empire, shall be submitted to the free and solemn acceptance of all the citizens, throughout the whole extent of France.

Title I.—*General Dispositions.*

Art. 1. The constitutions of the empire, namely, the constitutional act of the 22 Frimaire, year 8, the senatus-consulta of the 14 and 16 Thermidor, year 10, and that of the 28 Floreal, year 12, shall undergo the following modifications. All other clauses contained in the said constitutions, shall be confirmed and held valid.

2. The legislative power is exercised by the emperor and by two chambers.

3. The first chamber, or chamber of peers, is hereditary.

4. The emperor appoints the members of this chamber : they are irrevocable, they and their male descendants in line direct, and according to the order of primogeniture. The number of peers is unlimited. Adoption does not confer the rank of peer on the person who is the subject of it.

The peers take their seat at twenty-one years of age, but have no deliberative voice until twenty-five.

5. The arch-chancellor of the empire presides over the

chamber of peers, or, in the case provided for by Art. 51 of the senatus-consultum of the 28 Floreal, year 12, one of the members of the chamber especially appointed by the emperor.

6. The members of the imperial family, in the order of succession, are peers of right. They sit next to the president. They take their seats at eighteen years of age, but have no deliberative voice until twenty-one.

7. The second chamber, or chamber of representatives, is elected by the people.

8. The members of this chamber are six hundred and twenty-nine in number. They must be at least twenty-five years of age.

9. The president of the chamber of representatives is appointed by the chamber, at the opening of its first session. He continues in office until the renewal of the chamber. His appointment is subject to the emperor's approbation.

10. The chamber of representatives verifies the powers of its members, and decides on the validity of disputed elections.

11. The members of the chamber of representatives, for the expenses of travelling, and during the session, receive the indemnity decreed by the constituent assembly.

12. They are indefinitely re-eligible.

13. The chamber of representatives is renewed of right, and entirely, every five years.

14. No member of either chamber can be arrested, except in the case of flagrans delictum, or prosecuted on a criminal or correctional charge, during the sessions, except in pursuance of a resolution of the chamber of which he forms a part.

15. No one can be arrested or detained for debt, from the day on which the chambers are convoked, until forty days after the session.

16. The peers are tried by their chamber, on charges of

a criminal and correctional nature, in the forms which shall be regulated by law.

17. A peer or representative may discharge public functions of any description, except such as are connected with the national accounts.

Notwithstanding, the prefects and sub-prefects cannot be chosen by the electoral college of the department or arrondissement, in which they officiate.

18. The emperor sends to the chambers any of the ministers and counsellors of state, who sit there, and take part in the discussions, but have no deliberative voice, except as peers or representatives of the people, they are members of the chamber.

19. The ministers who are members of the chamber of peers or of that of representatives, or who sit there as agents of the government, give the explanations required of them by the chamber, when the interest of the state is not compromised by their publicity.

20. The sittings of the two chambers are public. They may, however, form themselves into a secret committee; the chamber of peers on the demand of ten members; that of representatives, on the demand of twenty-five. The government also, when it has communications to make, may call for a secret committee. In all cases, the resolutions of the chambers cannot be passed, or the votes given, except in a public sitting.

21. The emperor may prorogue, adjourn, and dissolve the chamber of representatives. The proclamation for dissolving the chamber convokes the electoral colleges for a new election, and enjoins the meeting of the representatives within six months at farthest.

22. The chamber of peers cannot meet during the vacation of the chamber of representatives, or when that body is dissolved.

23. The government has the right of proposing laws.

The chambers may propose amendments ; but if these amendments are not adopted by the government, the chambers are obliged to vote on the law as originally proposed to them.

24. The chambers have a right to invite the government to propose a law on a determinate object, and to reduce to a digested form the provisions which it appears to them proper to insert in the law.

25. When the draft of a bill thus framed, is adopted in one chamber, it is carried to the other, and if there approved of, it is presented to the emperor.

26. No written discourse, except the reports of the commissions, the reports of the ministers on proposed laws, and the accounts which are presented, can be read in either of the chambers.

Title II.—*Of the Electoral Colleges, and of the Mode of Election.*

27. The electoral colleges of department and arrondissement are preserved, conformably to the senatus-consultum of the 16 Thermidor, year 10, save the modifications hereafter mentioned.

28. The cantonal assemblies shall fill up every year, by annual elections, all the vacancies in the electoral colleges.

29. From and after the year 1816, a member of the chamber of peers, appointed by the emperor, shall be president for life and irremovable, of each electoral college of department.

30. From and after the same period, the electoral college of each department, from among the members of each college of arrondissement, shall appoint the president and two vice-presidents. For this purpose, the meeting of the college of department shall precede by fifteen days that of the college of arrondissement.

31. The colleges of department and arrondissement shall

appoint the number of representatives laid down for each, by the act and table hereto annexed*.

32. The representatives may be chosen indifferently throughout the whole extent of France.

Every college of department or arrondissement which shall choose a representative not a native of the said department or arrondissement, shall appoint a supplement, who shall be chosen necessarily, out of the department or arrondissement which elects him.

33. The manufacturing and commercial interests shall have a particular representation.

The election of the commercial and manufacturing representatives shall be made by the electoral college of department, from a list of eligible persons drawn up by the chambers of commerce and consultative chambers together, according to the act hereto annexed†.

Title III.—*Of Laws relating to Taxation.*

34. Direct general taxes, whether on real property, or on moveables, are only voted for a year. Indirect taxes may be voted for several years.

When the chamber of representatives is dissolved, the taxes voted in the preceding session are continued until the meeting of the new chamber.

35. No direct or indirect tax, in money or in kind, can be collected; no loan can be contracted; no inscription of credit on the great book of the public debt can be made; no domain can be alienated or exchanged; no levy of men for the army can be ordered; no portion of the territory can be exchanged, except in pursuance of a law.

36. No proposition for a tax, loan, or levy of men, can be made, except to the chamber of representatives.

* See the table placed after the constitutional charter.

† See page 282.

37. To the chamber of representatives also is first carried, 1. The general budget of the state, containing the estimate of the receipts, and the means proposed for meeting the expenses of the year in each department of the ministry; 2. The account of the receipts and expenses of the year, or of preceding years.

Title IV.—*Of the Ministers and their Responsibility.*

38. All the acts of government must be countersigned by a minister holding a department.

39. The ministers are responsible for the acts of government signed by them, as well as for the execution of the laws.

40. They may be accused by the chamber of representatives, and are tried by that of the peers.

41. Every minister, every commandant of land or naval forces, may be accused by the chamber of representatives, and tried by that of the peers, for having compromised the security or honour of the nation.

42. The chamber of peers exercises in this case, as well in determining the character of the offence, as in inflicting the punishment, a discretionary power.

43. Before ordering the impeachment of a minister, the chamber of representatives must declare that there is room for examining the grounds on which the motion for impeachment is founded.

44. This declaration cannot be made except upon the report of a commission of sixty members, chosen by lot. And the commission cannot make its report within a period of less than ten days after its appointment.

45. When the chamber has declared that there is room for an examination, it may summon the minister before it, and demand an explanation from him. This summons cannot be issued within a period of less than ten days after the report of the commission.

46. In every other case, the ministers holding departments may be summoned or ordered before them, by the chambers.

47. When the chamber of representatives has declared that there is room for examination against a minister, a new commission is formed of sixty members, drawn, like the first commission, by lot. This commission makes a new report on the impeachment of the minister, though not until ten days after its appointment.

48. The resolution for impeachment cannot be passed until ten days after the reading and distribution of the report.

49. When the resolution for impeachment has passed, the chamber of representatives appoints five of its members, as commissioners, for prosecuting the impeachment before the chamber of peers.

50. Art. 75, Title VIII., of the constitutional act of the 22 Frimaire, year 8, declaring that the agents of the government cannot be prosecuted except in pursuance of a decision of the council of state, shall be modified by a law.

Title V.—*Of the Judiciary Power.*

51. The emperor appoints all the judges. They hold their offices for life; saving the appointment of the judges of the peace, and the judges of commerce, which shall be ordered as heretofore. The judges now in office, appointed by the emperor according to the provisions of the senatus-consultum of the 12th October 1807, or such as he shall think proper to continue in office, shall receive provision for life before the first of January next.

52. The institution of juries is preserved.

53. The pleadings in criminal causes are public.

54. Military offences alone, are within the jurisdiction of the military tribunals.

55. All other offences, not excepting those which are committed by military persons, come under the jurisdiction of the civil tribunals.

56. All the crimes and offences which were attributed to the imperial high court, and of which the cognizance is not reserved by the present act to the chamber of peers, shall be carried before the ordinary tribunals.

57. The emperor has the right, even in correctional cases, of granting pardon, as well as that of granting amnesty.

58. When the court of cassation requires the interpretation of a disputed point of law, this shall be given in the form of a law.

Title VI.—*Rights of Citizens.*

59. Frenchmen are equal in the eye of the law, as well with regard to taxes and public burdens, as to the right of admission to civil and military employments.

60. No one, under any pretext, can be withdrawn from the judges whom the law assigns to him.

61. No one can be prosecuted, arrested, detained, or sent into exile, except in the cases laid down in the law, and according to the form which it prescribes.

62. The freedom of religious worship is guaranteed to all.

63. Every description of property possessed or acquired in pursuance of the laws, and all the debts of the state, are inviolable.

64. Every citizen, by affixing his name to his writings, has a right to print and publish his sentiments. After publication he incurs a legal responsibility; though then, even if there should be room only for applying a correctional punishment, he cannot be tried, except by a jury.

65. The right of petition is assured to all citizens. Every

petition is individual. These petitions may be addressed either to the government, or to the two chambers; but both must be entitled—*To H. M. the Emperor*. They shall be presented to the chambers on the guarantee of the member who recommends the petition. They are read publicly; and if the chamber takes them into consideration, are laid before the emperor by the president.

66. No place, no portion of the territory, can be declared under martial law, except in the case of invasion by a foreign force, or of civil commotions.

In the first case, the declaration is made by an act of government. In the second case, it can only be done by a law. If however the chambers should not happen to be in session, the act of government for declaring martial law must be converted into a proposition of law, within fifteen days after their meeting.

67. The French people declare, moreover, that in the delegation which they have made, and which they now make of their powers, they never meant, and they do not now mean, to confer the right of proposing the re-establishment of the Bourbons, or of any prince of that family, on the throne of France, not even in the case of the extinction of the imperial dynasty; neither the right of restoring the old feudal nobility, the feudal and seigniorial rights, the tithes, or any privileged and dominant religion, no more than the power of doing any thing in prejudice to the irrevocability of the sale of the national domains: they formally interdict to the government, to the chambers and to the citizens, any proposition to this effect.

NAPOLEON.

AN ACT FOR REGULATING THE NUMBER OF DEPUTIES
INTENDED TO REPRESENT THE COMMERCIAL
AND MANUFACTURING INTERESTS.

22 APRIL, 1815.

Art. 1. In pursuance of Art. 33 of the act of the constitutions, relative to the representation of the commercial and manufacturing interests, France shall be divided into thirteen arrondissements*.

2. Twenty-three deputies shall be appointed for all the arrondissements, and shall be chosen, first, from among the merchants, owners of private armed ships of war, or bankers; secondly, from among the manufacturers†.

3. The deputies shall be appointed in the chief place, and by the electors of the department‡.

4. The deputies shall be necessarily chosen from a list of eligible persons framed by the united members of the chambers of commerce, and of the consultative chambers of commerce, of the whole commercial arrondissement; the said chambers appointing by ballot, and the majority of votes, a president, vice-president, and secretary.

5. The assembly charged with framing this list, shall place on it the merchants who are the most distinguished for their probity and talents, who pay the most taxes, who carry on the most extensive trade at home and abroad, or

* Chief places of the commercial arrondissements: Lille, Rouen, Nantz, Bourdeaux, Toulouse, Nimes, Marseilles, Lyons, Strasburgh, Troyes, Paris, Orleans, Tours—comprising the eighty-seven departments.

† To the number of eleven from the first, and twelve from the second.

‡ In the thirteen towns, the chief places of the commercial arrondissements, mentioned in the preceding note.

employ the greatest number of workmen ; distinguishing them according to the nature of the commercial affairs in which they are engaged.

6. This list shall be composed of sixty for each commercial arrondissement, and of one hundred and twenty for the arrondissement of Paris. Each shall contain at least a third manufacturers, and a third merchants.

7. It shall be renewed, throughout, every five years, at the end of every legislature, or in case of the dissolution of the chamber of representatives.

8. The present act shall be annexed to the act additional to the constitutions, bearing date this day.

ACCESSION OF LOUIS XVIII.

IN consequence of the disaster at Leipsic the allied armies entered France. The ministers of the foreign courts signed at Chaumont, on the 1st of March, 1814, a treaty of alliance, the object of which was to compel France to subscribe to a peace which should secure the independence of Europe. Their armies daily approached the capital: finally, on the 30th of March, the heights of Paris were attacked, and on the 31st, a capitulation delivered the city to the allied sovereigns.

On the 1st. of April, the senate appointed a provisional government, and the council-general of the department of the Seine, conjointly with the municipal council of Paris, published a proclamation, in which they declared that they freed themselves from all obedience to Napoleon, and expressed a wish for the restoration, or the monarchical government in the person of Louis XVIII.

On the 3d. a decree of the senate pronounced the deposition of the emperor, abolished the right of succession established in his family, and absolved the French from the oath which they had taken to him. All this took place while Napoleon, ill informed of what was passing at Paris, abdicated at Fontainebleau in favour of his son: but being informed soon after of the measures taken towards his family, the same man who, but a short time before had rejected an advantageous peace, was now willing to profit of the last and only favour that would be granted him.

The emperor of Russia had in the mean while published a proclamation inviting the senate to frame a constitution, which *France*, he said, *could no longer do without* *. This

* See the *Moniteur* of 31 March, 1814.

was drawn up in haste, and presented by the provisional government to the acceptance of the senate on the 6th of April.

By this instrument the dynasty of the Bourbons was *restored*, but the king was not to be *proclaimed* until he should have declared, in writing, his assent to the oath prescribed by the constitution. In other respects the constitution of the senate rested nearly on the same general grounds as that of 1791. It declared, that the French people called freely to the throne *Louis-Stanislas-Xavier de France*, brother of the last king. The inviolability of the royal person, the freedom of religion, the liberty of the press, were recognised; the public debt, the sale of the national domains guaranteed; confiscation abolished; the old and new nobility preserved.

The legislative power was vested in the king and two chambers; the former having the right of sanction, and the three branches indiscriminately, the privilege of proposing laws. The age of twenty-five was declared sufficient to render a person eligible to either chamber. The dignity of senator was made perpetual and hereditary from male to male, in the order of primogeniture: the revenues of the senate were left to the senators and their successors.

Other articles arranged particular interests. Thus the rank, honours, and pensions of the military were guaranteed: no Frenchman could be called to an account either for the opinions he had expressed, or the votes he had given—principles equally confirmed by the charter.

The constitution decreed by the senate produced no result. By the royal declaration of Saint-Ouen, published the 2d of May, the king assured the French that he would fix by a solemn act, the rules of their rights. Commissioners of the senate and legislative body were to engage in compiling it. At length, in the beginning of the month following, the king opened the session of the chambers.

The constitutional charter was read in the assembly : the peers and deputies swore *fidelity to the king, and to the laws of the kingdom* : and the government of the charter was established.

Decree of the Senate, conferring the Provisional Government of France on H. R. H. the Count d'Artois, under the Title of Lieutenant-General of the Kingdom.

Paris, April 14, 1814.

The senate having deliberated on the proposition of the provisional government, and having heard the report of a special commission of seven members,

Decrees as follows :

The senate commits the provisional government of France to H. R. H. the Count d'Artois, under the title of lieutenant-general of the kingdom, until Louis-Stanislas-Xavier de France, called to the throne of the French, shall have accepted the constitutional charter.

The senate resolves that the decree of this day, concerning the provisional government of France, shall be presented this evening by the senate in a body, to H. R. H. the Count d'Artois.

Reply of H. R. H. the Count d'Artois to the Decree of the Senate.

April 14, 1814.

I have taken notice of the constitutional act which recalls the king, my august brother, to the throne of France. I have received from him no authority to accept the constitution, but I know his sentiments and his principles, and I do not fear being disavowed when I assure you, in his name, that he will admit the basis of it.

The king, in declaring that he would maintain the form of government now existing, by this acknowledged that the monarchy ought to be balanced by a representative government divided into two chambers, which two chambers

are the senate, and the chamber of deputies of the departments; that the impost shall be freely consented to by the representatives of the nation; public and individual liberty secured; the liberty of the press respected, save the restrictions necessary to the maintenance of order and the public tranquillity; the freedom of religion guaranteed; property rendered inviolable and sacred; the ministers responsible, liable to be accused and prosecuted by the representatives of the nation; the judges irremovable; the judicial power independent, no one being liable to be torn from his natural judges; the public debt guaranteed; the pensions, ranks, and military honours preserved, as well as the old and new nobility; the legion of honour maintained, the king determining its decoration; that every Frenchman be eligible to civil and military employments; that no individual be disquieted for his opinions or votes, and that the sale of the national domains be irrevocable. These, gentlemen, appear to me the bases essentially necessary for consecrating the rights and tracing the duties of all, for assuring the existing state of things, and guaranteeing the future.

I thank you, in the name of the king my brother, for the part which you have had in the restoration of our legitimate sovereign, and for having by that measure assured the happiness of France, for which the king and his whole family are ready to sacrifice their lives. One sentiment only can henceforward prevail amongst us: there is no need for recalling the past: we are no longer but a nation of brothers. During the time I hold the reins of power, which I hope will be very short, I shall employ all the means at my disposal, for contributing to the public happiness.

Declaration of the King, dated the 2d of May, 1814.

Louis, by the grace of God, king of France and Navarre: to all to whom these presents shall come; greeting.

Recalled by the love of our people to the throne of our fathers, enlightened by the misfortunes of the nation we are destined to govern, our first care is to invoke that mutual confidence, so necessary to our repose and to their happiness.

Having perused with attention the plan of the constitution proposed by the senate on the 6th of April last, we acknowledge the justice of the basis on which it is founded, but perceive that many articles, bearing the stamp of the precipitation with which they were drawn up, cannot, in their present form, become fundamental laws of the state. Resolved to adopt a liberal constitution, we wish it to be sagely combined ; and, unable to accept one which it is indispensable to correct, we convoke, for the tenth of the month of June in the present year, the senate and the legislative body ; engaging ourselves to lay before them the work which, with the assistance of a commission chosen from these two bodies, we shall have framed, and for the bases of such constitution to give the following guarantees.

The representative government shall be maintained, such as it now exists, divided into two bodies ; *viz.*, the senate, and the chamber composed of the deputies of the departments.

The impost shall be freely consented to ; public and individual liberty assured ; the liberty of the press respected, save the precautions necessary to the public tranquillity ; the freedom of worship guaranteed ; property shall be inviolable and sacred ; the sale of national property irrevocable ; the ministers, responsible, shall be liable to be prosecuted by one of the legislative chambers, and tried by the other ; the judges shall be irremovable, and the judicial power independent ; the public debt shall be guaranteed ; the pensions, ranks, and honours of the military preserved, as well as the old and new nobility ; the legion of honour, of which we will determine the decoration, shall

be preserved ; every Frenchman shall be admissible to civil and military employments : finally, no individual shall be liable to be disquieted for his opinions or his votes.

Done at Saint Ouen, the 2d of May, 1814.

Signed. LOUIS.

August 1813

CONSTITUTIONAL CHARTER.

JUNE 4, 1814.

Louis, by the grace of God, king of France and Navarre ; to all those to whom these presents shall come ; greeting.

Divine Providence, in recalling us to our states after a long absence, has imposed upon us great obligations. Peace was the first thing necessary to our subjects : we have been incessantly occupied with it, and that peace, as necessary to France as to the rest of Europe, is signed. A constitutional charter was called for by the actual state of the kingdom : we promised it, and we publish it. We have reflected that although authority, whole and entire, resided in France in the person of the king, our predecessors have not hesitated to modify the exercise of it according to the difference of times ; that thus the communes owed their freedom to Louis the Fat, the confirmation and extension of their rights to Saint Louis and Philip the Fair ; that the judicial order was established and developed by the laws of Louis XI., Henry II., and Charles IX. ; in fine, that Louis XIV. regulated almost every part of public administration by different ordinances, of which nothing had surpassed the wisdom.

After the example, therefore, of the kings our predecessors, we could not fail to appreciate the effects arising from the always increasing progress of knowledge, the new relations which this increase has introduced into society, the impulse given to men's minds within half a

century, and the important changes which have resulted from it ; we acknowledged that the desire of our subjects for a constitutional charter was the expression of a real want ; but, in acceding to their wishes we have taken every precaution that this charter might be worthy of us, and of the people we are proud to govern. Men, eminent for their wisdom, and taken from the first bodies of the state, have been joined to commissioners of our council for labouring at this important work.

But in acknowledging that a free and monarchical constitution was necessary to fulfil the expectations of enlightened Europe, we were obliged to recollect also, that our first duty towards our people was to preserve, for their own interest, the rights and prerogatives of our crown. We hoped that, instructed by experience, they would be convinced that the supreme authority could alone give to the institutions which it establishes, the strength, permanency, and majesty with which it is itself invested—that thus, when the wisdom of kings freely accords with the desires of the people, a constitutional charter may be of long duration ; but, that when violence extorts concessions from the weakness of the government, public liberty is no less in danger than the throne itself. We have sought the principles of the constitutional charter in the character of the French, and in the venerable monuments of past ages. Thus, in the restoration of the peerage we behold an institution truly national, and which ought to unite all recollections to all hopes, by uniting ancient and modern times.

In the chamber of deputies we have replaced those ancient assemblies of the Champs-de-Mars and de Mai, and those chambers of the third-estate, which so often afforded proofs of zeal for the interests of the people, and of fidelity and respect for regal authority. In thus endeavouring to renew the chain of time, which fatal mistakes had interrupted, we have banished from our recollection, as

would that we could efface from history, all the evils which, during our absence, have afflicted the country. Happy in again finding ourselves in the bosom of the great family, we know not how to reply to the love of which we receive so many proofs, but in pronouncing the words of peace and consolation.

The dearest wish of our heart is that all Frenchmen may live as brothers, and that no bitter recollection may ever trouble the security which ought to follow the solemn act we this day accord them.

Confident in our purpose, strong in our conscience, we engage, in presence of the assembly which hears us, to be faithful to this constitutional charter, reserving to ourselves to swear the maintenance thereof, with a new solemnity, before the altars of Him who weighs in the same scale the destinies of kings and nations.

For these reasons,

We have voluntarily, and by the free exercise of our royal authority, accorded, and do accord, make concession and octroi to our subjects, as well for ourselves as for our successors, and for ever, the constitutional charter which follows.

Public Law of the French.

Art. 1. The French are equal in the eye of the law, whatever in other respects, may be their titles and their rank.

2. They contribute without distinction and in proportion to their means, to the burdens of the state.

3. They are all equally admissible to civil and military employments.

4. Their individual liberty is equally guaranteed, no person being liable to be prosecuted or arrested, except in the cases provided for by the law, and according to the forms which it prescribes.

✓ 5. Every one professes his religion with equal liberty, and obtains the same protection for his mode of worship.

6. Nevertheless, the catholic, apostolic, and Roman religion, is the religion of the state.

7. The ministers of the catholic, apostolic and Roman religion, and those of the other modes of christian worship, alone receive provision from the royal treasury.

8. The French have a right to publish and print their opinions, conforming themselves to the laws necessary to restrain the abuse of this liberty.

9. All kinds of property are inviolable, without any exception as to that which is called *national*, the law making no difference between them.

10. The state may require the sacrifice of a property, where the public interest, legally attested, calls for it, but with a previous indemnification.

11. No one can be called to an account for the opinions and votes which he may have given down to the period of the restoration. The same oblivion is enjoined the tribunals and citizens.

12. The conscription is abolished. The mode of recruiting the land and naval forces is determined by a law.

Forms relative to the Government of the King.

13. The king's person is inviolable and sacred. His ministers are responsible. The executive power belongs to the king alone.

14. The king is supreme chief of the state, he commands the land and naval forces, declares war, makes treaties of peace, alliance and commerce, appoints to all employments in the public administration, and makes the regulations and ordinances necessary for the execution of the laws and security of the state.

15. The legislative power is exercised collectively by the

king, the chamber of peers, and the chamber of deputies of the departments.

16. The king proposes laws.

17. The proposition of a law is carried to the chamber of peers or to that of the deputies, at the king's option; except laws for levying taxes, which must be addressed to the chamber of deputies first.

18. Every law must be freely discussed and voted by a majority in each chamber.

19. The chambers have the power of praying the king to propose a law on any subject whatever, and of pointing out what they are of opinion that the law should contain.

20. This request may be made by either chamber after having been discussed in a secret committee; but ten days must elapse before the chamber in which it originates can transmit it to the other chamber.

21. If the proposition be adopted by the other chamber, it is laid before the king; if rejected, it cannot be again brought forward the same session.

22. The king alone sanctions and promulgates laws.

23. The civil list is fixed, for the whole reign, by the first legislature assembled after the king's accession.

Of the Chamber of Peers.

24. The chamber of peers is an essential part of the legislative power.

25. It is convoked by the king at the same time as the chamber of deputies. The session of one commences and finishes at the same time as that of the other.

26. Every meeting of the chamber of peers which shall be held out of the time of session of the chamber of deputies, or which shall not be ordered by the king, is, of full right, unlawful and of no effect.

27. The right of appointing the peers of France belongs to the king. Their number is unlimited: he may vary

their dignities, nominate them for life, or render them hereditary, according to his will *.

28. The peers have admission into the chamber at twenty-five years of age, and a deliberative voice at thirty.

29. The chancellor of France presides over the chamber of peers, and in his absence, a peer appointed by the king.

30. The members of the royal family and the princes of the blood are peers by right of birth. They sit immediately after the president; but until twenty-five years of age have no deliberative voice.

31. The princes cannot take their seat in the chamber unless by order of the king, expressed every session in a message; and this on pain of having every thing done in their presence annulled.

32. All the deliberations of the chamber of peers are secret.

33. The chamber of peers takes cognizance of the crimes of high treason and of attempts against the safety of the state, which shall be defined by law.

34. No peer can be arrested except by authority of the chamber, or tried on a criminal charge unless by that body.

Of the Chamber of Deputies of the Departments.

35. The chamber of deputies shall be composed of deputies chosen by the electoral colleges, the organization of which shall be determined by law.

36. Each department shall have the same number of deputies as it has hitherto had.

* It is necessary to cite here the king's ordinance of the 19th of August, 1815. Art. 1. The dignity of peer is, and shall remain hereditary from male to male, in the order of primogeniture, in the families of the peers who at present compose our chamber of peers. Art. 2. The same privilege is granted the peers whom we shall hereafter appoint.

37. The deputies shall be elected for five years, and in such a manner that the chamber be renewed every year by one-fifth.

38. No deputy can be admitted into the chamber, if he be not forty years of age, and pay a direct contribution of a thousand francs.

39. If, however, the department should not contain fifty persons of the age required, paying at least a thousand francs in direct contributions, that number shall be completed with the heaviest taxed under a thousand francs, who shall be equally eligible with the first.

40. The electors who concur in the appointment of deputies cannot exercise the right of suffrage, unless they pay a direct contribution of three hundred francs, and are thirty years of age.

41. The presidents of electoral colleges shall be appointed by the king, and be of right members of the college.

42. Half the deputies at least shall be chosen from among the eligible persons who have their political domicile in the department.

43. The president of the chamber of deputies is appointed by the king from a list of five members presented by the chamber.

44. The sittings of the chamber are public, but the demand of five members is sufficient for it to resolve itself into a secret committee.

45. The chamber is divided into bureaux for discussing the projects presented to it by the king.

46. No amendment can be made to a law, if it has not been proposed or consented to by the king, and if it has not been sent to and discussed in the bureaux.

47. The chamber of deputies receives all propositions for taxes: it is not until these propositions have been admitted that they can be carried to the chamber of peers.

48. No tax can be established or collected unless it has

been assented to by the two chambers, and sanctioned by the king.

49. Taxes on real property are granted for a year only. Indirect taxes may be voted for several years.

50. The king convokes the two chambers every year: he prorogues them, and may dissolve that of the deputies, but in this case he must convoke a new one within three months.

51. No bodily constraint can be laid on a member of the chamber during the session or within the six weeks which precede or follow it.

52. No member of the chamber, during the continuance of the session, can be prosecuted or arrested for a criminal offence, except in the case of *flagrans delictum*, until the chamber has consented to his prosecution.

53. No petition can be addressed or presented to either chamber except in writing. The law interdicts its being carried up and presented at the bar in person.

Of the Ministers.

54. The ministers may be members of the chamber of peers or of the chamber of deputies. They have, moreover, admission into either chamber, and the privilege of being heard when they demand it.

55. The chamber of deputies has the right of impeaching the ministers and of bringing them before the chamber of peers, which alone has the right of trying them.

56. They cannot be impeached except for acts of treason or extortion. Particular laws shall specify this species of offence and determine the prosecution.

Of the Judicial Order.

57. All justice emanates from the king. It is administered in his name by judges whom he appoints and institutes.

58. The judges appointed by the king are irremovable.

59. The courts and ordinary tribunals now in existence are preserved. Nothing shall be changed unless in virtue of a law.

60. The existing institution of judges of commerce, is preserved.

61. The office of judge of the peace is equally preserved. The judges of the peace, although appointed by the king, are not irremovable.

62. No one can be withdrawn from his natural judges.

63. Extraordinary tribunals and commissions cannot therefore be created. Jurisdictions prévôtal, should it be thought necessary to establish them, are not included under these denominations.

64. In criminal affairs the discussion shall be public, unless indeed this publicity be dangerous to order and morality, in which case the tribunal declares it by a judgment to that effect.

65. The institution of Juries is preserved. The changes which from longer experience may appear necessary, shall be effected by means of a law.

66. The punishment of confiscation of goods is abolished, and cannot be restored.

67. The king has the right of granting pardon, as well as that of commuting punishment.

68. The civil code and the laws actually existing, which are not contrary to the present charter, remain in vigour until they are legally repealed.

Particular Rights guaranteed by the State.*

69. The military in active service, the officers and soldiers in retirement, the widows, officers and soldiers pensioned, shall preserve their rank, honours, and pensions.

* See lib. 2, tit. 2, ch. 4, and especially ch. 59 of the code of criminal instruction.

70. The public debt is guaranteed. Every species of engagement contracted by the state with its creditors is inviolable.

71. The old nobility recover their titles. The new preserve their's. The king makes nobles at his will ; but he grants them ranks and honours only, without any exemption from the burdens and duties of society.

72. The legion of honour is preserved. The king determines the internal regulations and decoration thereof.

73. The colonies shall be governed by particular laws and regulations.

74. The king and his successors, at the ceremony of their coronation, shall take an oath faithfully to observe the present constitutional charter.

Miscellaneous Articles.

75. The deputies of the departments of France, who occupied seats in the legislative body at its last adjournment, shall continue to sit in the chamber of deputies, until replaced.

76. The first renewal of a fifth of the chamber of deputies shall take place, at the latest, in the year 1816, according to the order established among the series.

We ordain that the present constitutional charter, after having been laid before the senate and legislative body, conformably to our proclamation of the 2d of May, shall be immediately sent to the chamber of peers and to that of the deputies.

Given at Paris, in the year of grace, one thousand eight hundred and fourteen, and of our reign the nineteenth.

Signed, LOUIS.

(And lower down.)

L'ABBE' DE MONTESQUIOU.

ORGANIC LAWS.

ELECTIONS*.

Law of the 5th February, 1817.

Art. 1. Every Frenchman, enjoying civil and political rights, of the full age of thirty years, and paying three hundred francs in direct contribution, is called upon to concur in the election of the deputies of the department in which he has his political domicil.

2. To complete the amount of contributions necessary to the rank of elector or eligible person, every Frenchman counts the direct contributions paid by him throughout the kingdom; the husband those of his wife, although their effects should not be common to each other; the father those levied on the property of his children, under age, of which he has the enjoyment.

3. The political domicil of every Frenchman is in the department where he has his real domicil. Nevertheless, he shall be at liberty to transfer it to any other department where he pays direct contributions, on condition of his making, six months previous to such transfer, an express declaration before the prefect of the department where he has his political domicil at the time, and before the prefect of the department to which he wishes to transfer it.

A change of real or political domicil shall not confer the exercise of the political right relating to the election of deputies, except on such as have, during the four antecedent years, exercised it in another department. This exception does not hold good in the event of the dissolution of the chamber.

4. No one can exercise the rights of an elector in two departments.

* See Art. 35 of the Charter.

5. The prefect of every department shall frame a list of electors, which shall be printed and posted up.

He shall decide provisionally on the protests which are made against this list, without prejudice to legal redress, which shall not, however, suspend the elections.

6. Difficulties relating to the enjoyment of the civil or political rights of the person protesting, shall be definitively judged by the royal courts: those which concern his contributions or political domicile shall be decided by the council of state.

7. There is only one electoral college in each department. It is composed of all the electors of the department, and appoints immediately the deputies thereof to the chamber.

8. The electoral colleges are convoked by the king: they assemble in the chief place of the department, or in such other town of the department, as the king may appoint. They cannot engage in any other business than the election of deputies; they are forbidden every kind of discussion or resolution.

9. In departments where the number of electors does not exceed six hundred, they form one assembly only. In those which contain more than six hundred, the electoral college is divided into sections, of which each cannot contain less than three hundred electors. Each section concurs directly in the appointment of all the deputies which the college has to elect.

10. The *bureau* of each electoral college is composed of a president appointed by the king, of four scrutators, and one secretary. The four scrutators and secretary are appointed by the college—the scrutators by a single ballot for all, the secretary by individual ballot, and both by a majority of votes.

In the electoral colleges which are divided into sections, the bureau thus formed is attached to the first section of the college.

The bureau of each of the other sections is composed of a vice-president appointed by the king, of four scrutators and a secretary, chosen in the manner prescribed above.

At the opening of the college and sections of college, the president and vice-presidents appoint the provisional bureau, composed of four scrutators and a secretary.

11. The president and vice-presidents have alone the police of the electoral college, or sections of college, over which they preside.

Three at least of the members composing the bureau shall be always present.

The bureau judges provisionally, all difficulties arising on the measures of the college or section, subject to the final decision of the chamber of deputies.

12. The session of the colleges cannot extend beyond ten days. One sitting only can be held each day: it opens at eight in the morning and closes after the return of the ballot.

13. The electors vote by bulletin from a list which contains, at every round of balloting, as many names as there are appointments to make.

The name, qualification, and domicile, of every elector who deposits his bulletin, shall be inscribed by the secretary, or one of the scrutators present, on a list, in order to show the number of voters.

The member of the bureau who inscribes the name, qualification, and domicile of the elector, shall inscribe his own name on the margin.

There are only three rounds of balloting.

Each ballot, after it has remained open at least six hours, is closed at three in the evening, and the return made before the meeting breaks up.

The return of the votes in each section is passed and signed by the bureau. It is immediately carried by the

vice-president to the bureau of the college, which, in presence of the vice-presidents of all the sections, makes a general census of the votes.

The result of each round of balloting is immediately made public.

14. No one is elected at either of the two first rounds of balloting unless he has in his favour at least the fourth, plus one, of the votes of all the members who compose the college, and the moiety, plus one, of the suffrages returned.

15. After the two first rounds of balloting, if there remain any nominations to make, the bureau of the college draws up, and makes public a list of the persons who, at the second round, have gained the most suffrages. It contains twice as many names as there are yet deputies to elect.

At the third round of balloting, votes can be given to those only whose names are placed on this list.

Those candidates are returned who have the greatest number of votes in their favour.

16. In all cases where the number of votes is equal, the preference shall be given to age.

17. The prefects and general officers commanding the military divisions and departments, cannot be elected deputies in the departments in which they exercise their functions.

18. When, during the continuance, or in the interval of the sessions of the chambers, the deputation of a department becomes incomplete, the vacancy is filled up by the electoral college of the department to which the deputation belongs.

19. The deputies to the chamber receive neither provision nor indemnity.

20. The laws, decrees and regulations on the mode of

making elections, anterior to the present law, are repealed.

21. All formalities relative to the execution of the present law shall be regulated by the king's ordinances.

Law of the 25th March, 1818.

Art. 1. No one can be a member of the chamber of deputies, who on the day of his election is under forty years of age, and does not pay a thousand francs in direct contribution; saving the case provided for by Art. 39 of the charter.

2. A deputy elected by more than one department, shall be obliged to declare his choice to the chamber, within a month from the opening of the first session after his election: and in default of making his choice within that period, it shall be decided by lot, to which department the said deputy shall belong.

Law of the 29th June, 1820.

Art. 1. There is in every department an electoral college of department, and electoral colleges of arrondissement.

Nevertheless, all the electors shall assemble in one college, in those departments which, on the 5th February 1817, had only the nomination of one deputy; in those in which the number of electors does not exceed three hundred; and in those which, divided into five arrondissements under sub-prefects, do not contain more than four hundred electors.

2. The colleges of department are composed of the electors who are the heaviest taxed, being in number equal to one-fourth the whole number of electors in the department.

The colleges of department return one hundred and

seventy-two new deputies, conformably to the table annexed to the present law. They shall proceed to this election for the session of 1820.

The nomination of two hundred and fifty-eight deputies, of which number the chamber is at present composed, is assigned to the colleges of electoral arrondissements; the said colleges forming in each department in pursuance of Art. 1, saving the exceptions laid down in the second clause of the same article.

These colleges appoint each a deputy. They are composed of all the electors who have their political domicile in one of the communes included in the circumscription of each electoral arrondissement. This circumscription shall be determined provisionally, for each department, with the advice of the general council, by the ordinances of the king; the said ordinances being submitted to the approbation of the legislature at the next session. A fifth of the present deputies who are to be renewed, shall be chosen by the colleges of arrondissement.

For the following sessions, the departments whose turn it will be to renew their deputation, shall appoint them wholly after the basis laid down in the present article.

3. A list of the electors of each college shall be printed and posted up, one month before the opening of the electoral colleges. This list shall contain the quota and description of contributions paid by each elector, indicating the departments in which they are paid.

4. To constitute a person an elector or eligible as a deputy, direct contributions shall not be taken into account, unless the real property shall have been possessed, the location made, the patent taken out, and the trade subject to the patent exercised, one year before the period in which the electoral college is convoked. Those who enjoy rights acquired before the publication of the present law, and

the possessor by a title of succession, are alone excepted from this condition.

5. The contributions on real property, paid by a widow, are reckoned for such son, and in default of a son, for such grandson, and in default of son and grandson, for such son-in-law, as she chooses to appoint.

6. In proceeding to the election of deputies, each elector secretly writes his vote in the bureau, or causes it to be written by another elector of his choice, on a bulletin furnished to him for this purpose by the president: he returns his bulletin, written and folded up, to that officer, and it is by him deposited in the urn.

7. No one can be elected deputy at the two first rounds of balloting, if he does not unite in his favour at least a third, plus one, of the votes of all the members composing the college, and a moiety, plus one, of the suffrages returned.

8. Sub-prefects cannot be elected deputies by colleges of electoral arrondissements, which contain the whole or a part of the electors of the arrondissement of their sub-prefecture.

9. Places vacant by the death or resignation of deputies, shall be filled up by the colleges which appointed them.

In case of the decease or resignation of any one who is at present a member of the chamber, before it falls to the turn of the department to which he belongs to renew its deputation, such member shall be replaced by one of the colleges of arrondissement of that department.

The chamber shall determine by lot, the order in which the electoral colleges of arrondissement shall proceed to fill up the casual vacancies, until the first complete renewal of each deputation.

10. In case of vacancy by choice, decease, resignation or otherwise, the electoral colleges shall be convoked

within the space of two months, for proceeding to a new election.

11. Such provisions of the laws of 5th of February 1817, and 25th of March 1818, as are not annulled by the present law, shall continue to be executed, and shall be held common to the electoral colleges of department and of arrondissement.

TABLE OF THE NUMBER OF DEPUTIES RETURNED
BY EACH DEPARTMENT.

| DEPARTMENTS. | By the Statute- Consultum of the 16th therm., year 10. | By the Act Additional of 1815. | By the Ordinance of the 27th Nov. 1816. | By the law of the 29th June 1820. | OBSERVATIONS. |
|-------------------------|--|--------------------------------------|---|---|--|
| Ain | 4 | 7 | 3 | 2 | 1. The departments which have no deputies assigned to them in the second, third, and fourth columns, have ceased to form part of France since 1814. |
| Aisne | 3 | 9 | 4 | 2 | |
| Allier | 2 | 6 | 2 | 2 | |
| Alpes (Basses) . . . | 1 | 6 | 1 | 1 | |
| Alpes (Hautes) . . . | 1 | 4 | 1 | 1 | |
| Alpes Maritimes . . . | 1 | | | | |
| Ardèche | 2 | 5 | | 1 | |
| Ardennes | 2 | 7 | | 1 | |
| Arriège | 2 | 4 | 2 | 1 | |
| Aube | 2 | 7 | 2 | 1 | |
| Aude | 2 | 6 | 2 | 2 | 2. In order to ascertain the number of deputies now returned by each department, we must add together the number assigned to each in the third and fourth columns. 172 deputies are elected in pursuance of the law of the 29th June 1820, and 258 in pursuance of the ordinance of 1816; so that the chamber is at present composed of 430 members. |
| Aveyron | 3 | 7 | 3 | 2 | |
| Bouches-du-Rhône . . | 3 | 7 | 3 | 2 | |
| Calvados | 4 | 10 | 4 | 3 | |
| Cantal | 2 | 6 | 2 | 1 | |
| Charente | 3 | 7 | 3 | 2 | |
| Charente-inférieure . . | 4 | 10 | 4 | 3 | |
| Cher | 2 | 5 | 2 | 2 | |
| Corrèze | 2 | 5 | 2 | 1 | |
| Corse (Corsica) . . . | | 6 | 2 | | |
| Côte-d'Or | 3 | 7 | 3 | 2 | 3. For the departments of Golo and Liamone, see Corsica. |
| Côtes du Nord | 4 | 9 | 4 | 2 | |
| Creuse | 2 | 6 | 2 | 1 | |
| Dordogne | 4 | 8 | 4 | 3 | |
| Doubs | 2 | 6 | 2 | 2 | |
| Drôme | 2 | 6 | 2 | 1 | |
| Dyle | 4 | | | | |
| Escant | 4 | | | | |
| Eure | 4 | 8 | 4 | 3 | |
| Eure-et-Loire | 2 | 6 | 2 | 2 | |
| Finistère | 4 | 9 | 4 | 2 | |
| Forêts | 2 | | | | |
| Gard | 3 | 7 | 3 | 2 | |
| Garonne (Haute) . . . | 4 | 8 | 4 | 3 | |
| Gers | 3 | 7 | 3 | 2 | |
| Gironde | 5 | 10 | 5 | 3 | |
| Golo | 1 | | | | |
| Hérault | 3 | 6 | 3 | 2 | |
| Ille-et-Vilaine | 4 | 10 | 4 | 3 | |
| Indre | 2 | 6 | 2 | 1 | |
| Indre-et-Loire | 2 | 5 | 2 | 2 | |
| Isère | 4 | 8 | 4 | 2 | |
| Jemmapes | 4 | | | | |
| Jura | 2 | 7 | 2 | 1 | |
| Landes | | 5 | 2 | 1 | |
| Léman | 2 | | | | |
| Liamone | 1 | | | | |
| Loir-et-Cher | 2 | 5 | 2 | 1 | |
| Loire | 3 | 6 | 3 | 2 | |

| DEPARTMENTS. | By the Statute- Constitution of the 16th therm., year 10 | By the Act Additional of 1815. | By the Ordinance of the 27th Nov. 1816. | By the law of the 30th June, 1820. | OBSERVATIONS. |
|------------------------|--|--------------------------------------|---|--|---------------|
| Loire (Haute) . . . | 2 | 5 | 2 | 1 | |
| Loire Inférieure . . | 4 | 8 | 4 | 2 | |
| Loiret | 3 | 6 | 3 | 2 | |
| Lot | 4 | 5 | 4 | 2 | |
| Lot-et-Garonne . . . | 3 | 7 | 3 | 2 | |
| Losère | 1 | 4 | 1 | 1 | |
| Lys | 4 | | | | |
| Maine-et-Loire . . . | 4 | 8 | 4 | 3 | |
| Manche | 4 | 10 | 4 | 3 | |
| Marne | 3 | 8 | 3 | 2 | |
| Marne (Haute) . . . | 2 | 5 | 2 | 2 | |
| Mayenne | 3 | 6 | 3 | 2 | |
| Meurthe | 3 | 8 | 3 | 2 | |
| Meuse | 2 | 6 | 2 | 2 | |
| Meuse-Inférieure . . | 2 | | | | |
| Mont-Blanc | 3 | 5 | | | |
| Mont-Tonnere | 3 | | | | |
| Morbihan | 4 | 8 | 4 | 2 | |
| Moselle | 4 | 7 | 4 | 3 | |
| Nèthes (Deux) . . . | 3 | | | | |
| Nièvre | 2 | 6 | 2 | 2 | |
| Nord | 8 | 12 | 8 | 4 | |
| Oise | 3 | 7 | 3 | 2 | |
| Orne | 4 | 7 | 4 | 3 | |
| Ourthe | 3 | | | | |
| Pas-de-Calais | 4 | 11 | 4 | 3 | |
| Puy-de-Dôme | 4 | 9 | 4 | 3 | |
| Pyrénées (Basses) . . | 2 | 8 | 3 | 2 | |
| Pyrénées (Hautes) . . | 2 | 5 | 2 | 1 | |
| Pyrénées-Orientales . | 1 | 4 | 1 | 1 | |
| Rhin (Bas) | 4 | 8 | 4 | 2 | |
| Rhin (Haut) | 3 | 6 | | 2 | |
| Rhin-et-Moselle . . . | 2 | | | | |
| Rhône | 3 | 5 | 3 | 2 | |
| Roër | 4 | | | | |
| Sambre-et-Meuse . . . | 2 | | | | |
| Saône (Haute) | 2 | 6 | 2 | 1 | |
| Saône-et-Loire | 4 | 9 | 4 | 3 | |
| Sarre | 2 | | | | |
| Sarthe | 4 | 7 | 4 | 3 | |
| Seine | 8 | 12 | 8 | 4 | |
| Seine Inférieure . . . | 6 | 10 | 6 | 4 | |
| Seine-et-Marne | 3 | 7 | 3 | 2 | |
| Seine-et-Oise | 4 | 10 | 4 | 3 | |
| Sèvres (Deux) | 2 | 6 | 2 | 1 | |
| Somme | 4 | 9 | 4 | 3 | |
| Tarn | 2 | 6 | 2 | 2 | |
| Tarn-et-Garonne . . . | | 5 | 2 | 2 | |
| Var | 3 | 6 | 3 | 2 | |
| Vancluse | 2 | 6 | 2 | 1 | |
| Vendée | 3 | 5 | 3 | 2 | |
| Vienne | 2 | 7 | 2 | 2 | |
| Vienne (Haute) | 2 | 6 | 2 | 2 | |
| Vosges | 3 | 8 | 3 | 2 | |
| Yonne | 3 | 8 | 3 | 2 | |
| | 300 | 606 | 258 | 172 | |

LIBERTY OF THE PRESS*.

LAW ON THE SUPPRESSION OF CRIMES AND DELICTS, COMMITTED BY
WAY OF THE PRESS OR BY ANY OTHER MEANS OF PUBLICATION.

17 OF MAY 1819.

CHAP. I.—*On Public Incitement to Crimes and Delicts.*

Art. I. Whoever, either by discourses, cries or menaces, uttered in public places or resorts, or by printed or written papers, designs, engravings, paintings or emblems, sold or distributed, put to sale or exposed in public places or resorts, or by placards and bills exposed to the view of the public, shall have incited the author or authors of any action entitled a crime or delict, to the commission thereof, shall be reputed as an accomplice, and punished as such.

2. Whoever, by any one of the means laid down in Art. 1, shall have incited to the commission of one or more crimes, although the said incitement should not have been followed by any consequence, shall be punished by a term of imprisonment which shall not be less than three months, nor more than five years, and by a fine which shall not be less than fifty francs, nor more than six thousand.

3. Whoever, by any one of the aforesaid means, shall have incited to the commission of one or more delicts, although the said incitement may not have been followed by any consequence, shall be punished by a term of imprisonment of from three days to two years, and with a fine of thirty to four thousand francs, or with one of the said punishments only, according to circumstances : save in such cases as the law shall inflict a less severe punishment on the perpetrator of the crime ; in which case the same punishment shall be inflicted on the author of the incitement.

4. Every formal attack by one of the means laid down in

* See Art. 8 of the Charter.

Art. 1, levelled either against the inviolability of the king's person, against the order of succession to the throne, or against the constitutional authority of the king and the chambers, shall be reputed an incitement to crime, and punished with the penalties prescribed by Art. 2.

5. The following actions shall be reputed incitements to delicts, and punished with the penalties laid down in Art. 3.

1st. All seditious cries publicly uttered, except such as fall under the provisions of Art. 4.

2d. The carrying away or degradation of the public signs of the royal authority, done through hatred or contempt of that authority.

3d. The wearing in public any external rallying sign, not authorized by the king or by the regulations of police.

4th. Every formal attack, by one of the means laid down in Art. 1. upon the rights guaranteed by Art. 5 and 9 of the constitutional charter.

6. The inciting disobedience to the laws by one of the same means, shall be also punished with the penalties laid down in Art. 3.

7. The laws which punish the inciting to, and taking part in other actions than those of publication provided for by the present law, remain in force.

Chap. II.—*Of Outrages against Public and Religious Morals, and against Good Manners.*

8. Every outrage against public and religious morals, or good manners, by any one of the means laid down in Art. 1, shall be punished with a term of imprisonment of from one month to a year, and with a fine of from sixteen to five hundred francs.

Chap. III.—*Of Public Offences against the Person of the King.*

9. Whoever, by any one of the means mentioned in Art. 1 of the present law, shall have rendered himself guilty of

an offence (*offense*) against the person of the king, shall be punished with a term of imprisonment which shall not be less than six months nor exceed five years, and with a fine which shall not be less than five hundred francs, nor more than ten thousand.

The guilty party, moreover, shall be liable to be interdicted from the exercise of all, or any part of the rights mentioned in Art. 42 of the penal code, during a period of time equal to that of the imprisonment to which he shall have been condemned. This time shall begin counting from the day in which the culpable person shall have undergone his punishment.

Chap. IV.—*Of Public Offences against the Members of the Royal Family, the Chambers, the Sovereigns and Heads of Foreign Governments.*

10. An offence by any one of the means mentioned in Art. 1, against the members of the royal family, shall be punished with a term of imprisonment varying from one month to three years, and with a fine of from one hundred to five thousand francs.

11. An offence, committed by one of the same means, against one or both of the chambers, shall be punished with a term of imprisonment of from one month to three years, and with a fine of from one hundred to five thousand francs.

12. An offence committed by one of the same means, against the persons of sovereigns or heads of foreign governments, shall be punished with a term of imprisonment varying from one month to three years, and with a fine of from one hundred to five thousand francs.

Chap. V.—*Of Public Defamation and Injury.*

13. Every allegation or imputation of an action tending to wound the honour or consideration of the person or body

to whom the action is imputed, is a defamation (*diffamation*.)

Every outrageous expression, term of contempt or invective, which does not include the imputation of any action, is an injury (*injurer*.)

14. Acts of defamation and injuries committed by any of the means mentioned in Art. 1. of the present law, shall be punished according to the following distinctions.

15. Acts of defamation or injuries levelled against the courts, tribunals, or other constituted bodies, shall be punished by a term of imprisonment varying from fifteen days to two years, and with a fine of from fifty to four thousand francs.

16. An act of defamation levelled against any depository or agent of public authority, on account of circumstances relating to his functions, shall be punished by a term of imprisonment varying from eight days to eighteen months, and by a fine of from fifty to three thousand francs.

In this case, the imprisonment and fine may be inflicted together, or separately, according to circumstances.

17. Acts of defamation levelled against the ambassadors, ministers plenipotentiary, envoys, *chargés d'affaires*, or other diplomatic agents accredited to the king, shall be punished by a term of imprisonment varying from eight days to eighteen months, and by a fine of from fifty to three thousand francs, or with one of the said punishments only, according to circumstances.

18. Acts of defamation levelled against individuals, shall be punished by a term of imprisonment varying from five days to a year, and by a fine of from twenty-five to two thousand francs, or with one of the said penalties only, according to circumstances.

19. Injuries levelled against persons designated by Art. 16 and 17 of the present law, shall be punished by a term of imprisonment varying from five days to a year, and by a

fine of from twenty-five to two thousand francs, or with one of these penalties only, according to circumstances. Injuries against individuals shall be punished by a fine of from sixteen to five hundred francs.

20. Nevertheless, the injury which does not include the imputation of a determinate vice, or which is not public, shall continue subject to the punishments of simple police.

Chap. VI.—*General Dispositions.*

21. The speeches delivered in either of the two chambers, the reports and all other pieces printed by order of the said chambers, shall not afford room for any action.

22. The accurate report of the public sittings of the chamber of deputies, when given with fidelity in the public journals, shall not afford room for any action.

23. Speeches delivered, or writings produced before the tribunals shall not afford room for any action for defamation or injury. Nevertheless, the judges, seized of the cause, determining upon its merits, shall have power to pronounce the suppression of injurious or defamatory writings, and to condemn the parties concerned, to damages and costs.

The judges also, under similar circumstances, shall have the power of laying injunctions on the advocates and ministerial officers, and even of suspending them from the exercise of their functions.

The term of such suspension shall not exceed six months. In case of repetition it shall not be less than one year, nor more than five.

Acts of defamation foreign to the cause shall, however, be liable either to a public action, or to the civil action of the parties, when the right of bringing such action shall have been reserved to them by the tribunals, and in all cases, to a civil action by a third party.

24. The printers of writings of which the authors shall be brought to trial in pursuance of the present law, and

who shall have fulfilled the obligations prescribed by Title 11 of the law of the 21 Oct. 1814, shall not be liable to be called to an account for the simple fact of printing these writings, unless they have acted knowingly, as it is expressed in Art. 60 of the penal code, which defines the act of participation.

25. In case of repetition of the crimes and delicts provided for by the present law, there shall be room for an aggravation of the penalties enacted in Chap. IV. Book 1 of the penal code.

26. The Articles 102, 217, 367, 368, 369, 370, 371, 372, 374, 375, 377 of the penal code, and the law of 9 Nov. 1815, are abrogated.

LAW RELATIVE TO THE PROSECUTION AND TRIAL OF CRIMES AND
DELICTS COMMITTED BY WAY OF THE PRESS, OR BY ANY OTHER
MEANS OF PUBLICATION. 26 MAY, 1819.

Art. 1. The prosecution of crimes and delicts committed by way of the press, or by any other means of publication, shall be carried on ex-officio, and at the request of the public ministry, subject to the following modifications.

2. In the case of an offence against the chambers or one of them, by means of publication, the prosecution shall take place only so far as it is authorized by the chamber which considers itself injured.

3. In case of the same delict against the person of a sovereign or chief of a foreign government, the prosecution shall not take place except on the complaint or at the request of the sovereign or chief of the government which believes itself injured.

4. In the case of defamation or injury levelled against the courts, tribunals or other constituted bodies, a prosecu-

tion shall not take place except in pursuance of a resolution of the said bodies, adopted in a general assembly, demanding such prosecution.

5. In the case of the same offences against any depositary or agent of public authority, against any foreign diplomatic agent, accredited to the king, or against any individual, the prosecution shall not take place except on the complaint of the party affecting to be injured.

6. The public party in its requisition, if it prosecute officially, or the plaintiff in his complaint, shall be obliged to describe circumstantially the provocations, attacks, offences, outrages, acts of defamation, or injuries, on account of which the prosecution is instituted, and this, on pain of nullity of the proceedings.

7. Immediately after he has received the aforesaid requisition or complaint, the judge of instruction shall have power to order the seizure of the writings, printed papers, placards, designs, engravings, pictures, emblems, or other instruments of publication.

The order for seizure and the *procès-verbal* thereof, shall be notified, within three days of the said seizure, to the person on whom the seizure has been made, on pain of nullity of the proceedings.

8. Within eight days of the said notification, the judge of instruction is obliged to make his report to the chamber of the council, which proceeds in conformity to the code of criminal instruction, Book I. Chapter IX ; saving the provisions hereafter laid down.

9. If the chamber of the council are unanimously of opinion that there is no room to prosecute, it orders the removal of the seizure.

10. In the contrary case, or in the case of exception on the part of the king's attorney or of the civil party, against the decision of the chamber of the council, the instruments are transmitted without delay to the attor-

ney-general of the royal court, who is bound within five days after he receives them, to make his report to the chamber of accusation, and this chamber within three days of the said report, is obliged to pronounce its decision.

11. If the chamber of the council of the tribunal of first instance, within ten days from the notification of the procès-verbal of seizure, shall have failed to pronounce its decision, the said seizure shall be, of full right, non-suited. It shall be equally so, if the royal court shall have failed to pronounce on this same seizure within ten days from the deposit, at its registry, of the request which the party seized is authorized to present, in support of its appeal, against the ordinance of the chamber of the council. All the holders of the objects seized shall be obliged to restore them to the proprietor, on the simple exhibition of a certificate from the respective registers, attesting that there has been no judgment or decision within the time above prescribed.

The registers, under penalty of a fine of three hundred francs, and without prejudice to such damages and cost as the case may give occasion for, shall be bound to deliver this certificate on the first demand. Whenever the affair amounts only to a simple delict, the non-suiting of the seizure shall involve that of the public action.

12. In cases where the formalities prescribed by the laws and regulations concerning the deposit have been fulfilled, the process at the suit of the public minister cannot be carried on, except before the judges of the place in which the deposit was made, or of that of the residence of the accused.

In case of contravention to the provisions cited above concerning the deposit, the process can be carried on either before the judge of the place in which the accused resides, or in the place where the writings and other instruments of publication have been seized. In all cases, the prosecution

at the suit of the complaining party may be carried before the judges of his domicile, when the publication has taken place there.

13. Crimes and delicts committed by way of the press, or by any other means of publication, with the exception of such as are designated in the following article, shall be returned by the chamber of accusation of the royal court, to the court of assizes, to be tried at the session next ensuing. The writ of return shall be immediately notified to the accused.

14. Delicts of verbal defamation or verbal injury against any person, and those of defamation or injury, by any means of publication whatever, against individuals, shall be tried by the tribunals of correctional police, saving the cases assigned to the tribunals of simple police.

15. The chamber of the council of the tribunal of first instance in the judgment of prevention, and the chamber of accusation of the royal court, in the writ of return to the court of assizes, shall be obliged to describe circumstantially, and declare the nature of the facts, on account of which the said prevention or return is pronounced ; and this on pain of nullity of the said judgment or writ.

16. When, after an order has been issued for bringing a person to trial for crimes committed by means of publication, the said person cannot be apprehended, or does not present himself, proceedings shall be carried on against him in the manner prescribed by the code of criminal instruction, Book II, Title IV, Chapter on Contumacy.

17. When the return to the court of assizes is made for offences specified in the present law, if the accused be not present on the day fixed for trial by the president's ordinance, duly notified to the accused or at his domicile at least ten days before the said day of trial, with an allowance

of one day for every five myriamètres of distance, he shall be judged by default. The court shall decide without the assistance or intervention of jurymen, as well on the public action as on the civil action.

18. The accused shall have liberty to form opposition to the judgment by default, within ten days after the said sentence has been notified to him or at his domicile, with an allowance of one day for every five myriamètres of distance, provided that he notify his opposition as well to the public ministry as to the civil party.

The accused shall support, without redress, the costs attending the drawing up and notifying the judgment by default and the opposition, as well as the expense of the witnesses subpœnaed to the trial of the opposition.

19. The accused, within five days from that on which the opposition is notified, shall be obliged to lodge at the register's office a request, tending to obtain from the president of the court of assizes an ordinance for fixing a day for the trial of the opposition: this ordinance shall fix a day at the assizes next ensuing: it shall be intimated, at the request of the public ministry, as well to the accused as to the plaintiff, with subpœnas for the day appointed, at least ten days before the day of trial. In default of the accused fulfilling the formalities imposed on him by the present article, or of appearing in person, or by his attorney, on the day fixed by the ordinance, the opposition shall be reputed never to have been made, and the judgment by default shall be final.

20. No one shall be admitted to prove the truth of the defamatory facts, unless in the case of imputation against the depositaries or agents of authority, or against persons who have acted in a public character, for matters relating to their functions. In this case, the facts can be proved before the court of assizes by all the means in ordinary

practice, subject to a contrary proof by the same means. Proof of the imputed facts places the author of the imputation out of the reach of all punishment, without prejudice to the penalties pronounced against every injury which may not necessarily depend on the same facts.

21. The accused who wishes to be admitted to prove the truth of the facts in the case provided for by the preceding article, shall be obliged within eight days from and after the notification of the order of return to the court of assizes, or of opposition to the judgment by default delivered against him, to make known to the plaintiff ;

1st. The facts, plainly expressed and designated by their proper title, in this judgment, of which he intends to prove the truth ;

2d. A copy of the instruments ;

3d. The names, professions, and abodes of the witnesses through whom he means to establish his proof.

This communication shall contain a choice of domicile near the court of assizes ; the whole on pain of being reputed to have failed in his proof.

22. The plaintiff, within the eight days following, shall be obliged to communicate to the accused, at the domicile chosen by him, a copy of the instruments, and the names, professions, and residences of the witnesses, through whom he means to establish the contrary proof ; the whole equally on pain of failure.

23. The plaintiff, in a case of defamation or injury, may bring forward witnesses in proof of his moral character : the names, professions, and abodes of these witnesses shall be notified to the accused, or at his domicile, at least one day before the hearing.

The accused shall not be permitted to produce witnesses against the moral character of the plaintiff.

24. The plaintiff, immediately after the order of return, shall be obliged to choose a domicile near the court of assizes,

and to notify this choice to the accused, and to the public ministry; in default of which all notifications made at the registry of the court shall be held valid and as if made to the said plaintiff. When the accused is under arrest, all notices, to be reputed valid, must be communicated to him in person.

25. When the facts imputed are punishable by law, and proceedings are commenced at the suit of the public ministry, or the author of the imputation has denounced these facts, the prosecution and trial of the offence of defamation shall be, in the mean while, suspended.

26. Every sentence of condemnation against the authors or accomplices of crimes and delicts, committed by way of publication, shall ordain the suppression or destruction of the objects seized, or of all those which can be ultimately seized, in the whole or in part, according as this shall appear necessary for effecting the object of the condemnation.

The printing or advertizing the sentence may be ordered at the cost of the convicted party.

These sentences shall be rendered public in the same form as the judgments importing declaration of absence.

27. Whoever, after the condemnation of a writing, design or engraving is reputed known, by the publication of such condemnation in the forms prescribed by the preceding article, shall reprint, sell, or distribute them, shall undergo the *maximum* of the penalty to which the author may have subjected himself.

28. Every person accused of an offence committed by means of the press, or by any other means of publication, against whom an order of deposit or of arrest has been decreed, shall obtain provisional liberty on finding security. The security to be exacted from the accused shall not exceed double the *maximum* of the fine pronounced by the law against the offence which is imputed to him.

29. The time within which a public action against crimes and delicts committed by means of the press, or by any other means of publication, can be brought, shall be limited to six current months, counting from the day on which the act of publication which gives rise to the prosecution, took place.

To render effective this limitation of six months, the publication of a writing must be preceded by the deposit and the declaration that the editor intends to publish it.

If within this interval, an act of prosecution or instruction has been commenced, the public action shall not be subject to limitation until after the lapse of a year, counting from the last act, with regard even to the persons who may not be implicated in these acts of instruction or prosecution.

Nevertheless, in the case of an offence against the chambers, the term of delay shall not count during their recess.

The right of bringing a civil action shall not, in any case, be limited to a less period than three years, counting from the fact of publication.

30. Delicts committed by way of the press or by any other means of publication, and which should not be yet tried, shall be subject to trial according to the forms prescribed by the present law.

31. The law of 28 February, 1817, is repealed.

The provisions of the code of criminal instruction which are not annulled by the present law, shall continue in force.

**LAW RELATIVE TO THE PUBLICATION OF JOURNALS
OR PERIODICAL WRITINGS*. 9 JUNE, 1819.**

Art. 1. The proprietors or editors of every journal or periodical writing devoted in the whole or part to news or political matters, and appearing either on a fixed day, or

* Ordinance of the king concerning the execution of the law relative to the publication of journals or periodical writings, of the 9th of June, 1819.

Art. 1. The editor of a journal or periodical writing of the nature of those designated in Art. 1 of the law of this day, who may wish to furnish the security prescribed by law in rentes, (*interest or dividends on stock*,) shall declare to the judiciary agent of the royal treasury that he gives the inscription (*certificate of credit on the great book of the public debt*,) of which he is proprietor, for the security of his undertaking. The instrument of security between the judiciary agent and the proprietor of the inscription, shall be two-fold.

The inscription given for security shall be lodged at the central chest of the royal treasury. The money which falls due thereon shall continue to be paid on the presentation of a ticket delivered by the judiciary agent.

When the security is furnished in departmental inscription, the director of the registry, for the department to the auxiliary book of which the rente belongs, shall discharge the functions assigned above to the judiciary agent: the inscription shall be lodged in the chest of the receiver of the domains in the chief town.

The same formalities must be observed by every proprietor of a rente, who declares it to be given as security for the proprietor of a journal.

2. Every inscription whether direct or departmental, which is given as security, must be certified as valid for security (*visée pour cautionnement*,) either by the director of the great book, or by the receiver-general, before it is presented to the judiciary agent or to the director of the registry, in support of the declaration required in the preceding article.

3. When the amount of the security has been either deposited in the chest of assignments, or furnished in rentes, the editor or proprietor shall make before the prefect of the department, or at Paris, before the prefect of police, the declaration prescribed in Article 1, Clause 1, of the law. He shall produce at the same time, either the receipt of the chest of assignments, or an instrument attesting that he has given security in rentes.

The prefect shall immediately grant a certificate in proof of the declaration, and of the security having been given. The publication of the journal or periodical writing may commence immediately after.

4. The transmission of each number or livraison of the journal, or

by livraison and irregularly, but more than once per month, shall be obliged ;

1st. To make a declaration indicating the name of at least one proprietor or responsible editor, his residence, and the press duly authorized, at which the journal or periodical writing is to be printed ;

periodical writing, when published, required by Art. 5 of the law, shall be made at Paris, to the prefecture of police.

5. On the rendering of the judgment or sentence which, in default of the condemned party having discharged the amount of the condemnations pronounced against it within the time fixed by Art. 4 of the law, shall have ordered the sale of the inscription given for security, this inscription, at the request of the complaining party, or in case of fine, at that of the director of the registry, charged with the collection of fines, and as far as is necessary to meet the penalties incurred, shall be sold.

The sale shall take place under the direction of the judiciary agent, on the day following that on which the judgment or sentence is notified to him.

The departmental rentes, under the same circumstances, shall be transmitted by the director of the registry to the judiciary agent, who shall immediately effect the sale, and transmit the produce of it to the director of the registry, by an order from the central chest of the treasury on the receiver-general. The account of the stock-broker in proof of the expenses of brokerage, shall be annexed.

The deduction from the capital resulting from the sale shall be made in the manner laid down in Art. 3 of the law.

6. The forms prescribed for the original security must be also observed in making up and replacing it.

7. The proprietor or editor of a journal or periodical writing who may wish to terminate his undertaking, must make a declaration to this effect to the prefect of the department, or at Paris, to the prefect of police. The prefect shall give a certificate of the said declaration: on the exhibition of this instrument, and after an interval of three months, the security shall be repaid or discharged, unless in consequence of sentences incurred, or prosecutions instituted, opposition should be made thereto, either at the chest of assignments, or to the judiciary agent or director of the registry.

8. The editors or proprietors of the journals and periodical writings designated in Art. 1 of the law now in circulation, are allowed fifteen days for completing the formalities prescribed by the law of this day, and the present ordinance.

9. Our keeper of the seals, minister of justice, our minister of the interior and of finance, each in his department, are charged with the execution of the present ordinance, which shall be inserted in the bulletin of the laws.

2nd. To furnish security, which in the departments of the Seine, of Seine-et-Oise, and of Seine-et-Marne, shall amount to ten thousand francs rente for daily journals, and to five thousand francs rente for the journals or periodical writings which appear less frequently.

And in other departments, the security relative to daily journals, shall be two thousand five hundred francs rente, in cities of fifty thousand souls and upwards; fifteen hundred francs rente, in cities under that extent; and for journals or periodical writings which appear less frequently, one-half the said rentes.

Securities can be effected also at the chest for deposits, by lodging in it on the day of the deposit, a sum equal to the capital of the rente required.

2. The responsibility of the authors or editors indicated in the declaration, shall extend to all articles inserted in the journal or periodical writing; without prejudice to the common bond and liability of the authors or compilers.

3. The security shall be appropriated, by privilege, to the expenses, damages, and fines to which the proprietors or editors may be condemned: the deduction shall be made in the order indicated in the present article. In case of insufficiency there shall be room for recourse in pursuance of the general bond, to the effects of the declared responsible proprietors or editors of the journal or periodical writing, and of the authors and compilers of the condemned articles.

4. The condemnations incurred must be acquitted, and the security cleared or completed, within fifteen days from the notification of the sentence: during the fifteen days which elapse without the said security being cleared or completed, and as long as it remains so, the journal or periodical writing shall cease to appear.

5. At the moment of the publication of each number or

livraison of the journal or periodical writing, a copy, signed by a proprietor or responsible editor, shall be sent to the prefecture for chief places of departments, to the sub-prefecture for those of arrondissements, and in other towns, to the mayoralty.

This formality shall neither suspend nor retard the departure or circulation of the journal or periodical writing.

6. Whoever shall publish a journal or periodical writing without fulfilling the conditions prescribed in Articles 1, 4 and 5, of the present law, shall be punished correctionally by an imprisonment of from one month to six months, and by a fine of from two hundred to twelve hundred francs.

7. The editors of a journal or periodical writing cannot render an account of the secret sittings of the chambers, or either of them, without their authority.

8. Every journal shall be obliged to insert the official publications which are addressed to it for this purpose by the government, the day following that on which such publications are sent, on the sole condition of the payment of the expenses of insertion.

9. The responsible proprietors or editors of a journal or periodical writing, the authors or compilers of articles printed in the said journal or writing, accused of crimes and delicts on the subject of publication, shall be prosecuted and tried in the forms, and according to the distinctions, established with respect to all other publications.

10. In case of conviction, the same penalties shall be applied to them. Notwithstanding, the fines may be doubled, and, in case of repetition, quadrupled, without prejudice to the penalties attached to repetition, pronounced by the penal code.

11. The editors of the journal or periodical writing shall be obliged to insert in one of the numbers or livraisons appearing in the month in which the judgment or sentence is pronounced against them, an extract containing the

motives for, and enacting clause of the said judgment or sentence.

12. Contravention to Articles 7, 8 and 11 of the present law shall be punished correctionally by a fine of from one hundred to one thousand francs.

13. The prosecutions to which contravention to Articles 7, 8 and 11 of the present law may give rise, shall be limited to a period of three months, counting from the contravention, or from the interruption of the proceedings, if any should have commenced within the time held valid by law.

CHURCH OF FRANCE.

DECLARATION OF THE CLERGY OF FRANCE,

A. D. 1682.

Kings and princes, in their temporal capacity, are not subject to the ecclesiastical power: they cannot be deposed, directly or indirectly, by the authority of the heads of the church, nor can their subjects be exempted from the fidelity and obedience which they owe to them.

The decrees of the council of Constance on the authority of general councils, ought to remain in force, and the church of France does not approve those who say that these decrees are doubtful, that they have not been approved, or were framed only for a time of schism:

The exercise of the ecclesiastical power ought to be tempered by the canons: the regulations, customs and laws received in the Gallican church ought to be observed:

In fine, although the Sovereign Pontiff has the principal part in questions of faith, and his decrees concern all churches, and each church in particular, his judgment, nevertheless, is not infallible, if it be not followed by the assent of the whole church*.

CONCORDAT OF 1801†;

UNDER THE TITLE OF CONVENTION BETWEEN THE FRENCH GOVERNMENT AND HIS HOLINESS PIUS VII.

The government of the French republic acknowledges that the catholic, apostolic and Roman religion, is the religion of the great majority of French citizens.

* See FLEURY, *Inst. au Droit Ecclés.*, p. 3. chap. 25.

† The charter has omitted the fundamental rules of our public law, relative to the political constitution of the Church of France We refer, on

His Holiness equally acknowledges that this same religion has derived, and still expects the greatest advantage and splendour from the establishment of the catholic religion in France, and from the particular profession made thereof by the consuls of the republic.

In consequence, after this mutual acknowledgment, as well for the prosperity of religion, as for the maintenance of internal tranquillity, they have agreed as follows :

Art. 1. The catholic, apostolic and Roman religion shall be freely exercised in France. The celebration of it shall be public, those professing it, conforming themselves to such regulations of police as the government shall deem essential to the maintenance of the public tranquillity.

2. The holy-see, in concert with the government, shall form a new circumscription of French dioceses.

3. His Holiness shall declare to the titularies of the French bishopricks, that with a firm confidence he expects from them every kind of sacrifice, even that of their sees, for the promotion of peace and unity.

After this exhortation, should they refuse such sacrifice, when called for by the welfare of the church (a refusal which His Holiness does not anticipate,) new titularies to the government of the bishoprics of the new circumscription shall be appointed in the following manner.

4. The first consul of the republic, within three months after the publication of the bull of His Holiness, shall appoint to the archbishoprics and bishoprics of the new circumscription. His Holiness, observing the forms established with respect to France before the change of government, shall confer the canonical institution.

5. The appointments to bishoprics which may after-

this subject, to the chapter of the constitution *unwritten*, on the *Gallican church*: the principles there laid down will not permit us to give place in this collection to the act concluded in 1817, between the crown and the Holy See. It is evident, in fact, from a law the most constant, perhaps, of the monarchy, that this concordat can be only regarded as a *project*.

wards fall vacant, shall be in like manner made by the first consul, and the canonical institution be given by the holy-see, in conformity with the preceding article.

6. The bishops before they enter on the exercise of their functions, shall take immediately to the first consul, the oath of fidelity which was in use before the change of government, expressed in the terms following:

“I swear and promise before God on the holy evangelists,
“to preserve obedience and fidelity to the government
“established by the constitution of the French republic. I
“promise also, not to keep up any intercourse, assist at any
“council, or preserve any sort of union, either at home or
“abroad, which may be contrary to public tranquillity:
“and that, if I become acquainted with any plot or con-
“spiracy, carried on to the prejudice of the state, whether
“within or without the bounds of my diocese, I will make
“the government acquainted therewith.”

7. The ecclesiastics of the second order shall take the same oath before the civil authorities appointed by government.

8. The form of prayer following shall be recited at the end of the divine office, in all the catholic churches of France: *Domine, salvam fac rempublicam; Domine, salvos fac consules.*

9. The bishops shall make a new circumscription of the parishes of their dioceses, but which shall have no effect without the consent of government.

10. The bishops shall appoint to cures. They can choose such persons only as are approved of by the government.

11. The bishops shall be at liberty to have a chapter in their cathedral, and a seminary for their diocese, but the government is not obliged to endow these establishments.

12. All metropolitan, cathedral, parochial, and other churches, not alienated, necessary to the celebration of worship, shall be placed at the disposal of the bishops.

13. His Holiness, for the preservation of peace and the happy re-establishment of the catholic religion, declares that neither he nor his successors will in any manner trouble the acquirers of the ecclesiastical property which has been alienated; and that consequently, the possession of this same property, the rights and revenues attached to it, shall remain immutably fixed in their hands, or in those of their assigns.

14. The government shall make suitable provision for the bishops and curés whose dioceses and parishes shall be included in the new circumscription.

15. The government, in like manner, shall take measures, in order that French catholics may be able, if they wish it, to make foundations in favour of churches.

16. His Holiness acknowledges, in the first consul of the French republic, the same rights and prerogatives which the old government enjoyed at his court.

17. It is agreed between the contracting parties that in case one of the successors of the present first consul should not be a catholic, the rights and prerogatives mentioned in the above article, and the appointment to bishoprics, shall be regulated, with respect to the said consul, by a new convention.

The ratifications shall be exchanged at Paris within the space of forty days.

Done at Paris the 26th Messidor, year 9.

(Here follow the signatures.)

ORGANIC LAWS.

LAW OF THE 18TH GERMINAL, YEAR 10, ON THE
ORGANIZATION OF RELIGIOUS SECTS.

Of the Catholic Religion.

Title I.—*On the Administration of the Catholic Church in its general relations with the Laws and Police of the State.*

ART. 1. No bull, brief, rescript, decree, mandate, provision, (for collating to benefices), or substitute for such provision, or any other instrument of the court of Rome, even those which concern individuals only, can be received, published, printed, or otherwise put in execution, without the authority of government.

2. No individual styling himself a nuncio, legate, apostolical vicar or commissioner, or availing himself of any other denomination, can, without the same authority, exercise on the soil of France, or elsewhere, any function relative to the affairs of the Gallican church.

3. The decrees of foreign synods, not excepting those of general councils, cannot be made public in France, before the government has examined their form, their conformity with the laws, rights and franchises of the French empire, and every thing which, in their publication, might disturb or affect the public tranquillity.

4. No national or metropolitan council, synod of a diocese, or deliberating assembly, can be held, without the express permission of government.

5. All ecclesiastical functions are gratuitous, save the oblations which might be authorized, and fixed by regulations.

6. Recourse may be had to the council of state in all

cases of abuse on the part of superiors and other ecclesiastical persons. The cases of abuse are, usurpation or excess of power, opposition to the laws and regulations of the state, the infraction of rules confirmed by the canons received in France, encroachment on the liberties, franchises and customs of the Gallican church, and every undertaking or proceeding which, in the exercise of religion, may compromise the honour of citizens, arbitrarily trouble their conscience, degenerate into oppression or injury against them, or turn to the public scandal.

7. Recourse may be also had to the council of state, whenever an attempt is made to obstruct the public exercise of religion, or that liberty which the laws and regulations guarantee its ministers.

8. This recourse is open to every person interested : and in default of individual complaint, the prefects exercise it officially.

The public functionary, the ecclesiastic, or person who wishes to avail himself of this recourse, addresses a memorial containing particulars and signed with his name, to the counsellor of state, especially charged with affairs of religion : this officer, with the least delay possible, must obtain all necessary evidence ; and on his report, the affair is followed and definitively terminated in the administrative form, or referred, according to the exigency of the case, to the competent authorities.

Title II.—*Of Ministers.*

§ 1.—*General Dispositions.*

9. The catholic religion is exercised under the direction of archbishops and bishops in their dioceses, and under that of curés in their parishes.

10. Every privilege importing exemption or allowance of episcopal jurisdiction, is abolished.

11. The archbishops and bishops, under the authority of the government, may establish cathedral chapters and seminaries in their dioceses. All other ecclesiastical establishments are suppressed.

12. It is permitted the archbishops and bishops to add to their names the title of *Citizen* or *Monsieur*. All other appellations are forbidden.

§ 2.—*Archbishops or Metropolitans.*

13. The archbishops consecrate and instal their suffragans. In case of impediment or refusal on their part, their place is supplied by the oldest bishop of the metropolitan arrondissement.

14. They watch over the maintenance of faith and discipline, in the dioceses depending on their archbishoprick.

15. They take cognizance of the appeals and complaints brought against the conduct and decisions of the suffragan bishops.

§ 3.—*Of the Bishops, Vicars-general and Seminaries.*

16. No person can be made a bishop before the age of thirty, and if he be not originally a Frenchman.

17. Before the instrument of nomination is transmitted, the person or persons proposed, are obliged to produce a certificate of good life and manners, drawn up by the bishop of the diocese in which they have discharged the functions of ecclesiastical minister : they are examined on doctrinal points by a bishop and two priests commissioned by the first consul, who transmit the result of such examination to the minister charged with the affairs of religion.

18. The priest appointed by the first consul hastens to obtain the papal institution.

He cannot exercise any function before the bull declaring his institution has received the sanction of government, nor until he has taken, in person, the oath prescribed by

the convention formed between the French government and the holy see. This oath, of which the *procès-verbal* is drawn up by the secretary of state, is taken to the first consul.

19. The bishops appoint and institute the *curés*; they do not, however, declare their appointment, and confer the canonical institution, until this appointment has received the sanction of the first consul.

20. They are obliged to reside in their dioceses, nor can they leave them without permission from the first consul.

21. Each bishop may appoint two vicars-general, and each archbishop three: they choose them from among the priests possessed of the qualifications requisite for a bishop.

22. They visit annually, and in person, a part of their diocese, and in the space of five years, the diocese entire. In case of lawful impediment, the visitation is made by a vicar-general.

23. The bishops are charged with organizing their seminaries; the regulations for this purpose being submitted to the approbation of the first consul.

24. Those who are chosen to give instruction in the seminaries subscribe the declaration made by the clergy of France in 1682*, and published by an edict of the same year. They bind themselves to teach the doctrine therein contained, and the bishops address a formal copy of this submission to the minister charged with affairs of religion.

25. The bishops, every year, send to this minister the name of the persons who are studying in the seminaries, and who are destined for the ecclesiastical profession.

They cannot ordain any ecclesiastic, unless he prove himself possessed of a property yielding an annual revenue of at least three hundred francs, and that he possesses the

* See this declaration, p. 327.

qualifications required by the canons received in France, or who is under twenty-five years of age.

26. The bishops make no ordination before the candidates have been submitted to the government, and approved of by it.

§ 4.—*Of the Curés.*

27. The curés cannot enter on their functions until they have taken, before the prefect, the oath prescribed by the convention between the government and the holy see. A collated copy of this oath, of which the procès-verbal is prepared by the secretary-general of the prefecture, is delivered to them.

28. They are put in possession by a curé or priest appointed by the bishop.

29. They are obliged to reside in their parishes.

30. The curés, in the exercise of their functions, are immediately subject to the bishops.

31. The vicars and curates (*desservans*) exercise their ministry under the superintendency and direction of the curés. They are approved by the bishop and dismissible by him.

32. No foreigner can be employed in the functions of the ecclesiastical ministry, without the permission of government.

33. An ecclesiastic, although a Frenchman, who does not belong to some diocese, cannot exercise any function.

34. A priest cannot leave his own diocese to officiate as curate in another, without permission from his bishop.

§ 5.—*Of Cathedral Chapters, and the Government of Dioceses during the Vacancy of Sees.*

35. The archbishops and bishops who wish to use the power conferred on them of establishing chapters, cannot do this without bearing the authority of government, as well for the establishment itself, as for the number and choice of the ecclesiastics destined to compose it.

36. During the vacancy of a see, the metropolitan provides for it, and in default of the metropolitan, the oldest of the bishops suffragans to the government of the diocese.

The vicars-general of these dioceses continue in the discharge of their functions, from the death of the bishop until the appointment of a successor.

37. The metropolitans and the cathedral chapters must, without delay, give notice to the government of the vacancy of a see, and of the measures which have been taken for the government of the vacant diocese.

38. The vicars-general who govern during the vacancy, as well as the metropolitans or capitularies, must not permit any innovation on the usages and customs of the diocese.

Title III.—*Of Religious Worship.*

39. There is but one liturgy, and one catechism, for all the catholic churches of France.

40. No curé can order public prayers extraordinary in his parish, without the special permission of the bishop.

41. No festival, with the exception of Sunday, can be established without permission of the government.

42. Ecclesiastics, in religious ceremonies, use the habits and ornaments suitable to their rank : they cannot, in any case, or under any pretext, adopt the colour and distinctive marks reserved for bishops.

43. All ecclesiastics are habited in the French style, and in black. Bishops may add to this costume the pastoral cross and violet stockings.

44. Domestic chapels and private oratories cannot be established without the express permission of government, granted at the request of the bishop.

45. No religious ceremony takes place without the edifices devoted to the catholic religion, in towns where there are temples destined to different modes of worship.

46. The same temple cannot be consecrated to more than one religion.

47. In cathedral and parochial churches, a place is set apart for the catholic individuals who fill the civil and military offices.

48. The bishop arranges with the prefect the mode of calling the faithful to divine service by the sound of clocks. They cannot be sounded for any other purpose, without permission from the local police.

49. When the government orders public prayers, the bishops agree with the prefect and the military commandant of the place, on the day, hour and mode of executing such order.

50. The solemn prayers, called *sermons*, and those known by the name of *stations*, of the advent and lent, are delivered by such priests only as have obtained special authority from the bishop.

51. The curés, in the sermons (*prônes*) of the parochial masses, pray and cause prayers to be made, for the prosperity of the republic, and for the consuls.

52. In their exhortations, they are not permitted to make any accusation, direct or indirect, against persons, or against the other modes of religion authorized in the state.

53. In the sermon before mentioned, they are not to make any publication foreign to the exercise of religion, except it be ordered by the government.

54. They cannot confer the nuptial benediction except on such as prove in good and due form, that they have contracted marriage before the civil officer.

55. The registers kept by the ministers of religion, being intended to relate only to the administration of sacraments, cannot in any case supply the place of the registers ordained by law for verifying the civil condition of the French.

56. In all acts, ecclesiastical and religious, the equinoctial calendar established by the laws of the republic, must be used ; and the days be designated by the names which they had in the calendar of the solstices.

57. Sunday is the day appointed for the public functionaries to abstain from labour.

Title IV.—*Of the Circumscription of Archbishopricks, Bishopricks and Parishes, of the Edifices dedicated to Religion, and of the Maintenance of Ministers.*

§ 1.—*Of the Circumscription of Archbishopricks and Bishopricks.*

58. There are in France eleven archbishopricks or metropolitan sees, and fifty-seven bishopricks.

59. The circumscription of the metropolitan sees and dioceses is made conformably to the annexed table*.

PARIS, *Archbishoprick*, comprehends in its diocese, the department of the Seine; Troyes, Aube and Yonne; Amiens, Somme and Oise; Soissons, Aisne; Arras, Pas-de-Calais; Cambrai, Nord; Versailles, Seine-et-Oise, Eure-et-Loir; Meaux, Seine-et-Marne, Marne; Orleans, Loiret, Loir-et-Cher.

* **MALINES**, *Archbishoprick*.—Deux-Nèthes, Dyle. * **NAMUR**, Sambre-et-Meuse; * **TOURNAY**, Jemmappe: * **AIX-LA-CHAPELLE**, Roër, Rhin-et-Moselle; * **TRÈVES**, Sarre; * **GAND**, Escaut, Lys; * **LIÈGE**, Meuse-inf., Ourthe; * **MAYENCE**, Mont Tonnerre.

BESANÇON, *Archbishoprick*.—Haute-Saone, Doubs, Jura; Autun, Saône-et-Loire, La Nièvre; Metz, Moselle, * **FORÊTS**, Ardennes; Strasbourg, Haute Rhin, Bas Rhin; Nancy, Meuse, Meurthe, Vosges; Dijon, Côte-d'or, Haute Marne.

LYON, *Archbishopric*.—Rhone, Loire, Ain; Mende, Ar-

* The archbishopricks, bishopricks, or departments preceded by an *, no longer form part of France.

deche, Lozère ; * Grenoble, Isère ; Valence, Drome ; * Chambery, Mont Blanc, Léman.

AIX, *Archbishoprick*.—Var, Bouches-du-Rhône ; * Nice, Alpes Maritimes ; Avignon, Gard, Vancluse ; Ajaccio, Golo, Liamone* ; Digne, Hautes-Alpes, Basses-Alpes.

TOULOUSE, *Archbishoprick*.—Haute-Garonne, Arriège ; Cahors, Lot, Aveyron ; Montpellier, Hérault, Tarn ; Carcassone, Aude, Pyrénées-Or ; Agen, Lot-et-Garonne, Gers ; Bayonne, Landes, Hautes Pyrénées, Basses Pyrénées.

BOURDEAUX, *Archbishoprick*.—Gironde ; Poitiers, Deux Sèvres, Vienne ; La Rochelle, Charente-Inf., Vendée ; Angoulême, Charente, Dardogne.

BOURGES, *Archbishoprick*.—Cher, Indre ; Clermont, Allier, Puy-de-Dôme ; Saint-Flour, Haute-Loire, Cantal ; Limoges, Creuse, Corrèze, Haute-Vienne.

TOURS, *Archbishoprick*.—Indre-et-Loire ; Le Mans, Sarthe, Mayenne ; Angers, Maine-et-Loire ; Nantz, Loire-Inférieure ; Rennes, Ile-et-Vilaine ; Vannes, Morbihan ; Saint Brieux, Côtes-du-Nord ; Quimper, Finistère.

ROUEN, *Archbishoprick*.—Seine-Inférieure ; Coutances, Manche ; Bayeux, Calvados ; Séez, Orne ; Evreux, Eure.

TURIN, *Archbishoprick*.—* Saluces ; * Acqui ; * Coni ; * Asty ; Alexandria ; * Verceil ; Ivree.

§ 2.—Of the Circumscription of Parishes.

60. There is at least one parish for each jurisdiction of a justice of the peace. There shall be established also as many chapels of ease as may be required.

61. Each bishop, in concert with the prefect, regulates the number and extent of these chapels of ease. The plans adopted are submitted to the government, and cannot be carried into execution without its authority.

62. No part of the French territory can be erected into

* Corsica now forms one department only, which bears the name of the Isle.

cures or chapels of ease, without the express authority of government.

63. The priests who officiate in the chapels of ease are appointed by the bishops.

§ 3.—*Of the Maintenance of Ministers.*

64. The salary of an archbishop is 15,000 francs.

65. The salary of a bishop is 10,000 francs.

66. Curés are divided into two classes : the pay of curés of the first class, is limited to 1500 francs : that of curés of the second class to 1000 francs.

67. The pensions which they enjoy in pursuance of the laws of the constituent assembly, are deducted from the said provision.

The councils-general of the great communes, should circumstances require it, may grant them an increase of pay, from their rural effects or tolls.

68. The vicars and curates are chosen from among the ecclesiastics who are pensioned in pursuance of the laws of the constituent assembly.

These pensions, and the produce of offerings (oblations) form their maintenance.

69. The bishops draw up the projects of regulations relative to the offerings which the ministers of religion are authorized to receive for administering the sacraments.

The projects of regulations framed by the bishops cannot be published or otherwise put in execution, until they are sanctioned by the government.

70. Every ecclesiastic, pensioner of state, who refuses, except upon lawful grounds, to exercise the functions which are assigned to him, shall be deprived of his pension.

71. The councils-general of department are authorized to provide suitable residences for the archbishops and bishops.

72. The parsonages and gardens attached to them, which are not alienated, are restored to the curés and curates of

chapels of ease. In default of such parsonages, the councils-general are authorized to provide them with a residence and garden.

73. The foundations which are destined to the support of ministers, and the exercise of religion can only consist in rentes charged on the state. They are accepted by the bishop of the diocese, and cannot be carried into execution except with the consent of government.

74. Immoveables, with the exception of the edifices destined for residence, and the gardens contiguous, cannot be appropriated by ecclesiastical titles, nor possessed by the ministers of religion, on account of their functions.

§ 4.—*Of the Edifices destined to Religion.*

75. The edifices formerly destined to the Catholic religion, at present in the hands of the nation, in the proportion of one edifice for each cure or chapel of ease, are placed at the disposal of the bishops by the ordinances of the prefects of department. A copy of these decrees is addressed to the counsellor of state charged with the affairs of religion.

76. Officers are appointed for watching over the maintenance and preservation of the temples, and the administration of alms.

77. In parishes where there are no buildings fit for the exercise of religion, the bishop, in concert with the prefect provides a suitable edifice.

OF THE PROTESTANT RELIGION.

Title I.—*General Regulations for all the Protestant Communions.*

Art. I.—No one can exercise the functions of religion, if he is not a Frenchman.

2. Neither the protestant churches, nor their ministers, can maintain relations with any foreign power or authority.

3. The pastors and ministers of the different protestant communions, in the recitation of their offices, pray and cause prayers to be made, for the prosperity of the republic, and for the consuls.

4. No doctrinal or dogmatical decision, no formulary under the title of *confession*, or under any other title, can be published, or become matter of instruction, before the government has authorized the publication or promulgation thereof.

5. No change in discipline can take place without the same authority.

6. The council of state takes cognizance of all encroachments on the part of the ministers of religion, and of any dissensions which may arise amongst them.

7. Provision is made for the pastors of consistorial churches, it being understood that the property possessed by these churches, and the produce of offerings established by custom or by the regulations, are esteemed a part of such provision.

8. The provisions laid down in the articles organic of the catholic religion, on the freedom of foundations, and on the description of property which may become the object of such foundations, are common to the protestant churches.

9. There are two academies or seminaries in the east of France, for the instruction of the ministers of the confession of Augsburg.

10. There is a seminary at Geneva for the instruction of the ministers of the reformed churches.

11. The professors of all academies or seminaries are appointed by the first consul.

12. No one can be chosen a minister or pastor of a church of the confession of Augsburg, if he has not studied, during a determinate period, in one of the French seminaries destined to the instruction of ministers of that confession, and if he does not produce a certificate, in due form, attesting his time of study, his capacity, and good morals.

13. No one can be chosen minister or pastor of a reformed church, who has not studied in the seminary of Geneva, and who does not produce a certificate of the description laid down in the preceding article.

14. The rules on the administration and internal police of the seminaries, on the number and quality of the professors, on the mode of teaching, and on the subjects of instruction, as well as on the form of certificates or attestations of study, of good conduct and capacity, are subject to the approbation of the government.

Title II.—*Of the Reformed Churches.*

§ 1.—*Of the General Organization of these Churches.*

15. The reformed churches of France have pastors, local consistories, and synods.

16. There is one consistorial church for every six thousand souls of the same communion.

17. Five consistorial churches form the arrondissement of a synod.

§ 2.—*Of Pastors and Local Consistories.*

18. The consistory of each church is composed of the pastor or pastors serving such church, and of the elders or notable laity chosen from among the citizens, the heaviest assessed on the roll of direct contributions. The number of these notables cannot be under six, nor above twelve.

19. The number of ministers or pastors in one and the same consistorial church, cannot be increased without the authority of government.

20. The consistories watch over the maintenance of discipline, the management of the effects of the church, and that of the money arising from alms.

21. The meetings of consistories are held under the presidency of the pastor or senior pastor : one of the elders or notables officiates as secretary.

22. The ordinary meetings of consistories continue to be held on the days established by custom. Extraordinary meetings cannot take place without the permission of the sub-prefect, or, in the absence of the sub-prefect, of the mayor.

23. Every two years a moiety of the elders of the consistory shall be renewed. At this period the elders in office unite themselves to an equal number of protestant citizens, heads of families, and chosen from among the heaviest assessed on the roll of direct contributions of the commune in which the consistorial church is situated, for proceeding to the renewal of the consistory. The elders going out, may be re-elected.

24. In churches where there is at present no consistory, one shall be formed. All the members are elected by a meeting composed of twenty-five heads of protestant families, the heaviest assessed on the roll of direct contributions. This meeting cannot be held except with the authority, and in the presence of the prefect or sub-prefect.

25. Pastors cannot be deprived of their office without the motives for such deprivation being presented to the government, which approves or rejects them.

26. In case of the decease, voluntary resignation, or confirmed deprivation of a pastor, the consistory formed in the manner prescribed by Article 18, chooses by a plurality of votes, the person who is to succeed him.

The title of election is presented to the first consul by

the minister charged with affairs of worship, for his approbation.

This approbation given, the minister cannot enter on the duties of his office until he has taken, before the prefect, the oath required from the ministers of the catholic religion.

27. All pastors now on duty, are provisionally confirmed.

28. No church can extend from one department into another.

§ 3.—*Of the Synods.*

29. Every synod is composed of a pastor, or of one of the pastors, and an elder or notable of each church.

30. The synods superintend every thing which concerns the celebration of worship, the teaching of doctrine, and the conduct of ecclesiastical affairs. All decisions emanating from them, of whatever nature they may be, are subject to the approbation of the government.

31. The synods cannot assemble without the permission of government. Previous notice must be given to the minister charged with affairs of religion, of the subjects which are to be discussed. The assembly is held in presence of the prefect or sub-prefect, and a copy of the procès-verbal of its deliberations is addressed by the prefect to the minister charged with affairs of religion, who, with the least delay possible, makes his report thereof to the government.

32. A synod cannot continue its sittings longer than ten days.

Title III.—*Of the Organization of the Churches of the Confession of Augsburg.*

§ 1.—*General Dispositions.*

33. The churches of the confession of Augsburg have pastors, local consistories, inspections and general consistories.

§ 2.—*Of the Ministers or Pastors, and Local Consistories of each Church.*

34. What has been prescribed in section 2. of the preceding title regarding the pastors and reformed churches, is followed relative to the pastors, circumscription, and government of the consistorial churches.

§ 3.—*Of the Inspections.*

35. The churches of the confession of Augsburgh are subordinate to inspections.

36. Five consistorial churches compose the arrondissement of an inspection.

37. Each inspection is composed of the minister, and of one elder or notable from every church of the arrondissement: it cannot meet without the permission of government: the first time a convocation falls due, it shall be ordered by the senior minister of the churches of the arrondissement. Each inspection shall choose from its number two laymen and one ecclesiastic who shall take the title of inspector, and be charged with watching over the ministers and the maintenance of good order in the several churches.

The choice of the inspector and two laymen shall be confirmed by the first consul.

38. The inspection cannot meet except with the authority of the government, and in presence of the prefect or sub-prefect, nor until it has given previous notice to the minister charged with affairs of religion of the business which is to be the subject of discussion.

39. The inspector has power to visit the churches of his arrondissement: he joins to himself the two laymen appointed with him whenever circumstances require it: he is charged with convoking the general assembly of the inspection. No decision emanating from the general assembly of inspection can be carried into execution without being submitted to the approbation of the government.

§ 4.—*Of the General Consistories.*

40. There are three general consistories ; one at Strasburgh for the protestants of the confession of Augsburgh of the departments of the higher and lower Rhine ; another at Mentz for those of the departments of the Sarre and Mont-Tonnere ; and the third at Cologne for those of the departments of the Rhine-and-Moselle and Roër.

41. Each consistory is composed of a president (protestant layman,) of two ecclesiastics, inspectors, and of one deputy from each inspection. The president and two ecclesiastics, inspectors, shall be appointed by the first consul. The president, either to the first consul or to such public functionary as it pleases the first consul to appoint, shall take the oath required from the ministers of the catholic religion. The two ecclesiastics, inspectors, and the lay members shall take the same oath to the president.

42. The general consistory cannot meet without the permission of government, and only in presence of the prefect or sub-prefect: previous notice of the subjects which are to be treated of, must be given to the minister charged with affairs of religion. The meeting can only continue six days.

43. During the interval between one assembly and another, there is a directory composed of the president, of the senior of the two ecclesiastics, inspectors, and of three laymen, one of whom is appointed by the first consul, and two by the general consistory.

44. The powers of the general consistory and of the directory continue subject to the rules and customs of the churches of the confession of Augsburgh in all things which have not been formally repealed by the laws of the state or by the present articles.

OF THE JEWISH RELIGION.

Decree of the 10th December, 1806. On the Jewish Religion.*

Art. 1. A synagogue and an Israelitish consistory are established in every department containing two thousand individuals professing the religion of Moses.

2. In case two thousand Israelites should not be found in a single department, the circumscription of the consistorial synagogue embraces as many neighbouring departments as may be necessary to make up that number. The seat of the synagogue is always in the city of which the Israelitish population is the most numerous.

3. In no case can there be more than one consistorial synagogue for each department.

4. No particular synagogue can be established unless the proposal for such establishment is made by the consistorial synagogue to the competent authority. Each particular synagogue is administered by two notables and a rabbi, who are appointed by the competent authority.

5. There is one grand rabbi for every consistorial synagogue.

6. The consistories are composed of a grand rabbi, of another rabbi, so far as this is practicable, and of three other Israelites, two of whom are chosen from among the inhabitants of the city which is the seat of the consistory.

7. The oldest of its members presides over the consistory, with the title of *elder* of the consistory.

8. In every consistorial circumscription, twenty-five notables, chosen from among the heaviest taxed and the most reputable of the Israelites, are fixed upon by the competent authority.

* This regulation was framed by a commission appointed by a grand sanhedrim convoked at Paris in 1806, and confirmed by the imperial decree of the 10th December of the same year.

9. These notables proceed to elect the members of the consistory, subject to the approbation of the competent authority.

10. No one can be a member of the consistory, 1st. If he be under thirty years of age ; 2d. If he has incurred bankruptcy, unless he shall have honourably re-established himself ; 3. If he be known to have practised usury.

11. Every Israelite who wishes to settle in France or in the kingdom of Italy, must within three months, give notice thereof to the consistory nearest the place where he fixes his domicil.

12. The duties of the consistory are : 1st, To take care that the rabbis do not, either in public or private, give any instruction, or explanation of the law, otherwise than in conformity to the doctrinal decisions of the great sanhedrim ; 2nd, To preserve order in the interior of the synagogues ; to superintend the management of particular synagogues, to regulate the receipt and employment of the money destined to defray the expenses of the Mosaic religion, and to take care that on account, or under pretext of religion, no congregation for the purpose of prayer be formed, without being expressly authorized ; 3rd, To encourage by all possible means the Israelites of the consistorial circumscription in the exercise of useful professions, and to make known to the authorities those who have no avowed means of subsistence ; 4th, To give notice every year to the authorities of the number of conscript Israelites of the circumscription.

13. A central consistory composed of three rabbis and two other Israelites has its seat at Paris.

14. The rabbis of the central consistory are taken from among the grand rabbis, and the other members are subject to the conditions of eligibility laid down in Art. 10.

15. One member of the central consistory goes out every year : he is always re-eligible.

16. The remaining members fill up the vacancy: but the newly-elected person is not installed until the consent of the competent authority is obtained.

17. The duties of the central consistory consist, 1st, In corresponding with the consistories; 2nd, In watching over the execution of the present regulation in all its parts; 3rd, In making known to the competent authority all obstructions to the execution of the said regulation, either by the violation or non-observation thereof; 4th, In confirming the appointment of rabbis, and in proposing to the competent authority, when circumstances require it, the deposition of rabbis and members of consistories.

18. The election of the grand rabbi is made by the twenty-five notables designated in Art. 8.

19. The newly-elected person cannot enter on his functions until his election is confirmed by the central consistory.

20. No rabbi can be elected; 1st, If he be not a native or naturalized Frenchman or Italian of the kingdom of Italy*; 2nd, If he cannot produce a certificate of capacity signed by three grand rabbis, being Italians, if the candidate is an Italian, Frenchmen, if he belongs to France, and furthermore, from and after the year 1820, if he is not acquainted with the language of France, in France, and that of Italy, in Italy.

Cæteris paribus, that person shall be preferred, who, to a knowledge of the Hebrew language, adds some knowledge of the Greek and Latin.

21. The duties of the rabbis are; 1st, To teach religion; 2nd, The doctrine contained in the decisions of the grand sanhedrim; 3rd, To exhort in all cases obedience to the laws, especially, and in particular, to those relative to the defence of the country, and still more particularly to make such exhortation every year, at the period of the conscrip-

* Now that Italy is no longer united to France, this regulation has no effect.

tion, that is, from the first call of the authorities until the complete execution of the law ; 4th, To make the Israelites consider the military service as a sacred duty, and to declare to them, that during the time which they devote to this service, the law exempts them from such observances as it might not be possible to reconcile with it ; 5th, To preach in the synagogues, and recite the prayers which are commonly made there for the emperor and the imperial family ; 6th, to celebrate marriages and declare divorces, without having the power, under any circumstances, of performing these ceremonies, but in so far as the parties shall have well and duly proved their conformance to the laws on marriage and divorce.

22. The pay of the rabbis, members of the central consistory, is fixed at six thousand francs ; that of the grand rabbis of the consistorial synagogue at three thousand francs ; that of the rabbis of particular synagogues is fixed by the Israelites at whose request the synagogue was established ; it cannot be less than one thousand francs. The Israelites of the respective circumscriptions may vote an increase of this provision.

23. Each consistory proposes to the competent authority a project for assessing among the Israelites of the circumscription the sum necessary to discharge the salary of the rabbis. The other expenses of religion are determined and assessed by the competent authority at the request of the consistories. The pay of the rabbis, members of the central consistory, is levied in proportion to the sums collected in the different circumscriptions.

24. Each consistory appoints an Israelite, who cannot be a rabbi, or member of the consistory, to receive the money which is to be collected in the circumscription.

25. This receiver pays the rabbis, as well as the other expenses of religion, every three months, on an order signed by at least three members of the consistory. He gives in

his accounts every year on a fixed day to the assembled consistory.

26. Every rabbi who, after the present regulation comes in force, should not be employed, and who would still wish to preserve his domicile in France, or in the kingdom of Italy, shall be obliged to declare his adherence to the decisions of the great sanhedrim by a declaration formal and signed with his name. A copy of this declaration shall be transmitted by the consistory which receives it, to the central consistory.

27. The rabbis who are members of the great sanhedrim, so far as it is practicable, shall be preferred to all others for the places of grand rabbis.

END OF THE FIRST PART.

THE

NETHERLANDS.

HISTORICAL SUMMARY OF THE POLITICAL
INSTITUTIONS OF THE NETHERLANDS.

THIS subject naturally divides itself into three parts. The first will present a sketch of the political history of all the provinces formerly known under the various denominations of the Netherlands, Lower Germany, and the circle of Burgundy, from the earliest times down to the period which gave freedom to seven of these provinces ; in other words, to the establishment of the republic of Holland.

In the second part will be continued the history of the provinces which remained subject to Spain, until the treaty which detached them from France, to form a portion of the kingdom of the Netherlands.

In the third we shall present those vicissitudes which strike us as the most remarkable in the history of the republic, from its establishment, down to the period when, in like manner, it came to form another part of the same monarchy.

PART FIRST.

CHAPTER I.—*To the Union of the Provinces under the House of Burgundy.*

WHEN the Romans invaded Gaul, that extensive region which now forms the kingdom of the Netherlands, was inhabited by three powerful nations. To the south dwelt the Belgæ; to the north the Frisii; and on the island formed by the branches of the Rhine and the ocean, the Batavi.

The Belgæ are classed by the ancients among the nations of Gaul; and according to Cæsar, surpassed all the other people of that country in warlike valour*. The Batavi and Frisii were Germans. The former were early admitted to an alliance with Rome, which secured them a considerable share of independence. They were neither insulted by tributes, nor oppressed by the extortions of the publican. Set apart for the purposes of war, they merited by their fidelity and valour the confidence of the emperors†. The Frisii were the last of these nations to acknowledge the fortunes of Rome, as they were afterwards the first to recover their freedom. The morasses by which their country was every where covered, were at length penetrated by Drusus, who, having cut a canal from the Rhine to the Zuyder Zee, led the Roman galleys into the northern ocean, and by the mouths of the Ems and Weser, found a way into the heart of Germany. The Romans fortified several points on the frontiers of Gaul, to restrain the natural ardour of the Batavi. Caligula built a tower near Catwyk to secure the mouths of the Rhine. Britten and other

* Comment. lib. 1.

† Tacitus de Mor. Germ. Cap. xxix et xxxiv.

places were raised with the same view. The Batavi, however, far from taking umbrage, carried on an active commerce with these places.

The violent commotions which agitated Gaul at the death of Nero, did not leave the Batavi inactive. A chief named Civilis was induced to take advantage of the situation of the empire to free his country from the tribute of men to which it had been subjected. Taking up arms at his voice, the Roman frontiers were forced, and the Gauls of the north invited to unfold the standard of revolt. The chiefs ranged themselves in crowds round the Batavian warrior, several Roman posts were seized, and the times of Vercingetorix and Sacrovir seemed again restored.

Fortune at first favoured the confederates, and they made some progress in Gaul; but their success was of short duration. Most of the chiefs who had espoused the party of Civilis, as readily laid down their arms, and returned to their former obedience. Civilis himself, after carrying on the contest some time longer against one of Vespasian's generals, was content to make peace. The Batavi acknowledged the emperor and returned to their island. Their chief, resigning the sword, thenceforward lived and died unnoticed. Three centuries later, and he would have been the founder of some powerful state.

The history of the Low Countries is now, during a long interval, covered with a veil which it would be no less useless than fatiguing to attempt to remove. The names of the principal nations which inhabited it are no longer but casually mentioned, and simply as furnishing good soldiers for the Roman forces*. We perceive them also sustaining various struggles against those Frank tribes, whose restless audacity fatigued the Roman discipline; they repulsed them, and were repulsed by turns. Few particulars are

* *Tableau de l'Histoire Générale des Provinces-Unies.*

known as to the state of civilization among them. Christianity was slowly introduced ; the Roman institutions had succeeded in gaining ground on a few points only, while industry was annihilated at its dawn by the shoals of brigands who infested the banks of the rivers.

Towards the fourth century the Batavi and Frisii are confounded : some historians have given to the chiefs, who then governed them, the appellation of kings, but they were kings whose sceptres bowed before the sword of the prætor's lieutenant, and such of their barbarous names as have reached us do not deserve the notice of history. It is an opinion, which various passages in annals of the highest antiquity seem to confirm, that at the time the Franks made a permanent settlement in Gaul, the Belgic provinces were subject to that people ; but during the wars which followed the partition of the monarchy, they made efforts to recover their independence. Charles Martel and his successors overthrew them several times. Charlemagne finally united them to his vast empire. He divided the country into a certain number of cantons, over each of which he placed a count *. These counts were subordinate to a duke, and, like him, removable. The duchy of Friesland, *ducatum Frisiæ*, as the old annalists term it, extended to the Meuse. The other Belgic provinces, from a very early period, had been included in the kingdom of Austrasia. After Charlemagne these provinces shared the common fate. From removable, the delegates of the crown every where became unremovable and hereditary. In Friesland the duke disappeared amidst the troubles in which the feebleness of the crown and the ambition of its officers involved the empire. The counts became sovereigns. The number of these was successively reduced by wars or alliances, and at length there remained but one ; a change which, according to authors

* D. Bouquet, tom. v.

the most worthy of credit, took place towards the end of the ninth century, a period distinguished also by a great physical revolution in these countries. [The title of *Count of Holland* appears for the first time in a diploma granted by the emperor Henry IV. in 1064; and it is solely by anticipation that some writers have thus designated those lords of Friesland who lived two centuries before: the word Holland signifies a *low* or *marshy* country, and was at first only applied to a small canton.

At the period we treat of, this country presented itself under a remarkable aspect. The feudal system did not there assume the peculiar features which every where else distinguished it. The counts from the very first perceived that justice and moderation could alone secure to them a tranquil sway. The independent spirit of the people too imminently threatened their feeble power to allow them to abuse it with impunity. [Hence it happened that the first charters and concessions of power were fruitful in consequences to the great body of the nation. They assumed a rank in the community; their wishes were obliged to be heard, their rights to be represented; in other words, the *feudal parliament* of the sovereign, originally composed of the nobility and clergy, was converted at a very early period into an assembly of states by the presence of deputies from the people. The origin of these assemblies in Friesland, as in the other provinces, is very ancient, and their influence on public affairs is notorious from a great number of documents. [To cite but a single instance; in 1203, a countess of Friesland or Holland, twelfth sovereign of that country, was deposed for having married without the consent of the states.]

The princes generally celebrated their accession by granting privileges to the towns, and the least violation of them afterwards led to serious disputes. Every successive

year too, by adding to the resources of commerce and industry, especially in the southern provinces, gave a new impulse to the energies of the nation ; for if wealth sometimes degrades the higher orders, it is certain that tyranny has not a more sure auxiliary than the wretchedness of the people.

We must recollect, moreover, that the nobles of the second rank were much less numerous, and exercised less influence in the Low Countries than in the other states of Europe. The barons were there, by various relations, associated with the other subjects of the lord paramount ; and the lands had almost all preserved their original quality of freehold.

To account for this order of things, it may be observed that the inhabitants of these provinces continued to retain, to a very late period, their original character : they had waged an obstinate war against the German tribes who invaded their country ; and we have reason to believe that down to the great revolution which subverted the Roman empire they had suffered little from intermixture with other nations. When this revolution was consummated, when the barriers opposed to the Barbarians were forced, every thing was subdued, the people of the Low Countries as well as those of Gaul. But it happened that the devastating torrent followed the channels which had been already opened to it, and burst whole and entire on the southern and midland parts of Gaul. It was on these countries, so long protected against their assaults by the Romans, that the Barbarians chiefly longed to assuage their thirst for pillage and destruction. Thither then almost all the force of conquest tended. [The countries bordering on the ocean, and to which the access, especially from the north, was more difficult, were consequently less exposed : a less considerable number of the invaders settled in them ; and thus the effects of conquest were not so sensibly felt and so im-

mediate that the ancient habits of independence could not from the first appear with somewhat more energy than elsewhere, and serve to set some bounds to the authority exercised by the counts in the name of the kings or emperors of the Franks.

[While therefore the commons and nobility in England were uniting against the crown, and laying the foundations of freedom; while in France, on the contrary, the crown and commons were struggling together against the aristocracy; while Germany was experiencing all the evils of feudalism, and its vassals of every rank were engaged in wresting the territory piecemeal from the crown, this little corner of the earth afforded a noble example.] The commons more enlightened, more industrious, more courageous, entered the lists alone with chivalry, established and maintained their rights, and prepared a revolution which was destined to exercise a considerable influence over the fate of Europe. Such are the various aspects under which the history of the Low Countries presents itself at the period of the feudal government: modern writers have not sufficiently attended thereto, and we regret that the limits of this sketch will not permit us to be more diffuse upon it.

We shall not here undertake to trace the history of these different counties down to the period when the whole successively fell under the government of one powerful house. This would be nothing but a tiresome enumeration of princes, of whom several, it is true, have received from their contemporaries the titles of *great* and *magnanimous*, but over whose fame posterity has not the less drawn the veil of oblivion. The county of Holland alone, in the space of five centuries, reckons no less than twenty-six sovereigns, from the first of whose institution we have a tolerably clear account, to that countess Jacqueline who was obliged to resign her territories to the duke of Burgundy. On other

points, history offers in the Netherlands, although on a less extensive scale, the same features that every where else distinguished it in the age under consideration. It is made up of the petty wars of the nobility continually disputing with each other the possession of a bailiwick or village, of the consequent sufferings of the people, and of the monkish legends in which the writers of the age so much indulged. From subjects of this kind let us turn to one which falls more particularly within the limits of our work—the union of the provinces under the House of Burgundy.

CHAPTER II.—*To the Reign of Charles V.*

IN this chapter we have to trace the *History of Burgundy*, and we shall endeavour to do this with so much the more clearness, as there is no doubt to the great body of readers some confusion in those various dynasties of kings, counts or dukes of Burgundy, of whom our national annals so often make mention.

The Burgundians, a nation of German origin, inhabited the country about the banks of the Rhine at the period of the great revolution which changed the face of the civilized world. Christianity flourished among them, and their character, perhaps, partook a little less of the ferocity which distinguished the neighbouring nations.

It had long been the custom to arm the Barbarians against each other, and to excite them to mutual destruction. This practice was attended with no danger in times of prosperity, when the auxiliary could be only the blind instrument of a superior: but under weak and divided princes it necessarily contributed to the fall of the empire. The perfidious Stilico called the Burgundians into Gaul at the commencement of the fifth century. He reaped the reward of his treason, the following year, on the scaffold; but

the Burgundians who, at his summons, had spread themselves over the east of Gaul, maintained themselves there in spite of all the efforts of his successors.

In this manner the kingdom of Burgundy was founded. Gondicaire, who was only a chief of the Burgundians when they passed the Rhine in 407, was proclaimed king in 413 or 414. This kingdom in its widest extent comprised modern Burgundy, nearly the whole of Switzerland, Savoy, Dauphiny, and a part of Provence. The family of the founder reigned 120 years. It was then extinguished, and the kingdom became the prey of those Frank monarchs who, at every fresh partition of the monarchy, disputed, sword in hand, the territories which it assigned them. An interregnum, however, of twenty-seven years elapsed between the death of the last monarch and Gontran, the first sovereign of the race of Clovis. After the third monarch of that race, the kingdom became in some measure a dependancy on that of France, sometimes divided, sometimes possessed entire. The very title of this kingdom was lost amidst the different partitions which it underwent, and other denominations took its place.

In 855, Lothaire, son of the feeble emperor who succeeded Charlemagne, having divided his states between his three sons, Charles the third son, received the greatest part of the ancient kingdom of Burgundy, under the title of the *kingdom of Provence*; and the less considerable fraction which extended towards Switzerland, formed in 888, during the troubles excited by the deposition of Charles the Fat, the kingdom of *Transjurane Burgundy*. The union of these two states composed a new one, termed the *kingdom of Arles*. Rodolph, second king of Transjurane Burgundy, was in 933 the first king of Arles. Such, generally speaking, were crowns in those unhappy times; placed on the head of chiefs, the most conspicuous for their

valour, by the trembling hand of bishops, they followed the chances of fortune. Violence still overthrew the work of violence, and the sacred unction did not always give security from the sword. We must, observe, however, that in the short duration of these states, traces of that principle respected in France, under the two first races, and which Montesquieu appears to have been the first to establish in a formal manner, are always discernible. The crown was at once hereditary and elective; in other words, the monarch was elected, but he was obliged to be elected out of the reigning dynasty; a combination, singular enough for the age, of the principle of succession to which these people thought themselves bound to submit, and of the right of election, which was a natural consequence of the absolute liberty they had so long enjoyed.

A century had scarcely rolled away, and already had arisen, in the very bosom of the kingdom of Arles, several hereditary sovereignties which held immediately of the empire. The number of these was so much increased, that at length the monarchy was reduced to a mere name, which the emperor added to his other titles. What chiefly promoted this dismemberment was the power of the dignified clergy, who either by commission from the crown, or through the abuses common in that age, came to be invested with regal rights in their place of residence. It was thus that the archbishop of Lyons obtained his title of Exarch, just as the archbishop of Besançon and other bishops of France and Switzerland, those of princes or counts of the empire. The princes who bore the title of king of Arles did not preserve their sovereignty even over the wrecks of that monarchy. Some portions of it were united to the crown of France: another part adhered to the Helvetian confederacy; while the rest, composed of Savoy, of the county of Montbeillard and the bishopric

of Basle, were admitted to the rank of states of the empire*.

Let us now return to a portion of the kingdom of Burgundy dismembered at a more ancient period. Ever since the famous partition which the sons of Louis the Debonair made between them in 843, that part of the kingdom of Burgundy, which lay on this side the Rhone and Saone, and which was united to France as a portion of the states of Charles, remained annexed to that kingdom under the title of the duchy of Burgundy. The kings at first granted it to the princes of their house as a fief; then merely as an appanage, to be restored to the crown in default of direct posterity.

From the time of *Richard-le-Justicier*, the first prince with whom history makes us acquainted, and who lived at the end of the ninth century, the duchy of Burgundy was conferred on various princes. But Robert I., called *the old*, son of Robert, king of France, was in 1032 the head of a family which possessed this fief hereditarily. Hitherto it had been merely a benefice conferred on princes of the royal house. This Robert was the stock of what is termed the first race of the dukes of Burgundy. The duke, Eudes IV., inherited, in 1330, the *county of Artois* and the *county of Burgundy* from his mother. These counties comprised nearly the ancient Séquannaise or Franche-Comté, *viz.*, another dismembered portion of the kingdom of Arles.

At this period, therefore, the dukes of Burgundy were also counts of Artois and Burgundy. And their power, thus augmented, still continued to increase.

Philip I., called of *Rouvre*, from the place of his birth, succeeded in 1350 to his grand-father, Eudes IV., of whom we have just spoken. The mother of this prince was the wife of John, king of France, who governed the duchy

* Pfeffel, etc.

during the minority of Philip. This prince, when hardly twelve years of age, was married to the heiress of the county of Flanders, and at fifteen declared of age ; but he died a short time after, leaving no posterity. John, king of France, succeeded him in the duchy of Burgundy. The letters-patent for the re-union of the duchy to the crown are dated A.D., 1361.

Philip II., called *the Hardy*, fourth son of king John, was the stock of the second race of the dukes of Burgundy. He was created duke and sovereign of the state in 1363, at the request of the nobility and people. He was at the same time declared first peer of the kingdom, a title which had before belonged to the duke of Normandy. Having espoused the heiress of Flanders, daughter of Louis of Mâle, last count of Flanders, and widow of the young prince, Philip of Rouvre, the last duke of Burgundy of the first race, Philip-the-Hardy added to his dominions the counties of Flanders, Artois, Burgundy, Réthel, and Nevers. He thus became one of the most powerful princes in Europe, and the future grandeur of his family could be already foreseen. In other respects, the same spirit of independence as formerly, still distinguished the inhabitants of the Netherlands. Princes who were powerful enough to set monarchs at defiance, respected the wishes of their states-general. These states, like those of France, were composed of three orders. But it is evident that the deputies of towns enjoyed a more considerable influence in them than in any other assemblies of the same description then known ; always excepting England, which now took the lead of all the nations of Europe in the march of freedom.

Three other princes after Philip-the-Hardy reigned in Burgundy, and it continued to receive fresh augmentations of power until the catastrophe which terminated the days of the last duke.

John, called *the Fearless*, succeeded his father Philip in 1404. The famous rivalry between the houses of Burgundy and Orleans, the source of so many calamities to France, had already taken root. During the reign of the new duke it was marked by crimes of peculiar atrocity: he caused his rival to be assassinated at Paris in 1407, and was himself assassinated in 1419 on the bridge of Montereau by Tanegui du Châtel. Philip III., *the Good*, who succeeded John in 1413, made at first common cause with the English, and brought France to the brink of destruction. He afterwards abandoned his allies, and concluded peace with the crown. By this treaty the counties of Mâcon, Auxerre, Bar-sur-Seine and Ponthieu, the towns of Péronne, Roye, and several other places of Picardy, with the sum of sixty thousand crowns, were delivered to him. Such was the price at which this prince of the blood consented to return to his duty as a Frenchman and faithful vassal. This peace, however, was a fortunate event for France, and she would have been content to make yet greater sacrifices to be delivered from those ferocious Burgundian bands, who, during a period of thirty years, had so well seconded the ambition of the heirs of Edward III.

To mark the principal additions to the state of Burgundy under the reign of Philip the Good. He purchased in 1421 the Marquisate of Namur, of which one Jean Thierry of the house of Flanders was the sovereign. He inherited in 1430 the duchy of Brabant. He became count of Holland, Zealand and Friesland, in 1436, by the death of the countess Jacqueline, who had appointed him her RUWARD or lieutenant during her life, and successor at her death. Finally, in 1451, he was acknowledged duke of Luxemburg by the states of that province. His title was nearly similar to that by which he had obtained Holland. The memory of this prince was long esteemed in the Netherlands. The friend and patron of the arts, he rendered his

court the seat of politeness and good taste. He instituted, in 1430, the famous order of the Golden Fleece. He so far ameliorated the state of the finances and the administration, that while he amassed considerable wealth, he was yet able to diminish the burdens of his people. During his reign the manufactures in linen, wool, and silk, increased considerably, and the towns of Bruges and Antwerp became the rivals of Venice and Genoa.

Charles, surnamed *the Terrible*, or *the Bold*, who succeeded his father Philip, in 1467, for a short time menaced Europe with his iron yoke. He augmented his states by the Brisgau, the county of Ferrette, the Sundgau, and Alsace, which he purchased from the duke of Austria, and with several districts in which he established himself by force. The territories of Burgundy now extended from the Ems to the Somme, and from the ocean to the Jura. Its young prince wished to assume the title of king, and had he displayed more prudence and moderation, he would no doubt have obtained it. His ambition, violent and sanguinary, lost him the dignity to which he aspired, and hurried him into expeditions, by which he consumed the immense treasures of his house, and exhausted his provinces. Finally, that fortune, which had lowered the pride of monarchs, was humbled in its turn. He was beaten in the fields of Morat, by those courageous mountaineers who had just wrested their country from the tyranny of its feudal masters, and had been the first to plant the standard of liberty in the centre of Europe. Thenceforward he experienced nothing but reverses, and soon after terminated his career, sword in hand.

His fall was an event which affected Europe. "The tragical and unlooked-for end of Charles," says a distinguished writer*, "blotted from the chart of the po-

* Ancillon, *Tableau Politique*, tom. 11.

litical world, an independent and respectable power, that by its interference, might have prevented the bloody wars between France and Austria, have successfully opposed the projects of dominion entertained by both, have secured the freedom of Germany, and fixed the equilibrium of Europe." And such, in fact, at this period, would have been the importance of a *kingdom of the Low Countries*. Its creation would have taken away the aliment for future ambition, and, perhaps, have spared to nations a long series of calamities.

Charles left but one daughter. Louis XI., under the specious offer of his protection, endeavoured to strip this princess of her dominions; but her marriage with Maximilian of Austria disconcerted his views.

The houses of Burgundy and Austria were first united by this marriage. Mary and Maximilian had two children, Margaret and Philip. The first had for her share the counties of Burgundy, Artois, and Charolais: the second, at the death of his mother, (A.D. 1482.) was acknowledged sovereign of the Low Countries. This Philip, surnamed *the Fair*, having espoused Jane, heiress of Arragon, Castile, and Leon, had a son, to whom his aunt Margaret bequeathed the counties, his mother the crowns of Spain, his father the Low Countries, and his grandfather the duchy of Austria. This son was Charles V.

CHAPTER III.—*Until the Establishment of the Republic.*

[CHARLES V., by means of various arrangements, upon which it is useless to enlarge, became integral sovereign of the seventeen provinces of the Low Countries, namely, of the dutchies of Brabant, Limburg, Luxemburg, and Guelderland; of the counties of Zutphen, Holland, Zeeland, Flanders, Namur, Hainault, and Artois; of the marquisate of the Holy empire, (Antwerp and its territory,) of

the lordships of Friesland, Overijssel, Utrecht, Groningen, and Malines. In 1549, he published at Brussels a regulation declaring the union of the seventeen provinces in one indivisible state, hereditary in his family. In that remarkable act it was declared that all the internal laws of the provinces relative to the succession of the reigning family, so far as they were not conformable to the principle of representation adopted for the generality of the Low Countries, should be abolished. But it was not until after long conferences, nor until he had obtained the consent of the states of each province, that this law was promulgated by the monarch.

Charles was born, and had been brought up in the Netherlands. He was familiar with the language of the inhabitants, whom he loved, and amongst whom he resigned those habits of gravity and haughtiness, which he necessarily assumed in his palace at Madrid. He knew that in those provinces he could condescend to be affable, provided his government were just, and that he could be popular without danger, if he took care to respect the ancient privileges of the country. Of all his vast dominions his yoke was no doubt here the least oppressive, his benefits the most numerous. He encouraged the arts and commerce of the country, and was seen, in company with the queen of Hungary, his sister, visiting the tomb of William de Benkelin, the modest inventor of the art of preparing and barrelling herrings. The industry which had produced such happy consequences under the predecessors of this prince, then took a prodigious flight, and opened a course of prosperity which all the horrors of civil war in the following reign were destined but too often to interrupt.

Here, three things demand our particular attention. It is material to know what were the states of the provinces at this period ; secondly, to investigate the form of government introduced by Charles V. ; and finally, to explain

what is necessary relative to the circle of Burgundy.

The Netherlands, under the houses of Burgundy and Austria, present a form of government of which there are few examples in history. Conquest, the right of succession, or treaties, having united on a single head the various titles of sovereignty in these provinces, all were subjected to a common chief; but we should err greatly were we to consider them as forming a single state, of which the prince had nothing more to do than take the title of king. The least inquiry, on the contrary, teaches us that there were almost as many states, and, in some degree, as many chiefs, as there were provinces; in other words, that there was always a count of Holland, a marquis of Antwerp, a duke of Brabant; but that at this period the same prince was invested with these different titles.] On this point the pragmatic of Charles V. changed nothing, for this instrument formally declared that it could only have the force of law so far as concerned the succession in the reigning house; and that all regulations, whether relating to the general settlement of the states, or to their internal government, should remain untouched.

We have before us then a kind of federal league of various states, bound together by the tie of a common sovereign. The internal government of these states deserves to be studied. "It was composed," says the Cardinal Bentivoglio, "of the three forms joined together, namely, of monarchy, aristocracy, and democracy; each so tempered by the other, that while the higher part was vested in the person of the prince, the nobility and people retained also a moderate share of power*."

The sovereignty of every state was thus vested in the prince, and the body of deputies from the aristocracy and democracy, that is, in the assembly of the states.)

* *Relatione delle Provincie Unite*, lib. 1. cap. iv.

As to the way in which these famous assemblies were formed, history has transmitted to us but few particulars. It is only as we approach our own times, that the necessary information can be collected whereby to describe the mode of electing the deputies, and the forms which governed their deliberations. [All that we know for certain is, that the states were composed of deputies from the clergy, nobility, and cities. These three classes did not always sit in the same proportion. Here, the clergy were almost entirely, or wholly excluded: there, the nobility preponderated: in another province the delegates of the people prevailed. The deputies of the clergy were in general the abbots of various religious orders; and, differently from the other countries of Europe at this period, they exercised no influence in the affairs of the country, and performed no other part than that of voting in the assembly. The nobles held most of the principal offices in the nomination of the sovereign: the greater part lived in their castles without the cities, and their influence was counterbalanced by the strong and liberal organization of the cities. In most of them the population was divided into three classes: the first, composed of a nobility holding a middle rank between the great landed proprietors and the burgesses; the second, of the burgesses; and the third, of the people, divided into different corporations of arts and trades. All enjoyed municipal liberties of very wide extent, and several had peculiar privileges which served for the basis of their power and prosperity.]

The sovereign had a right to convoke the states when he thought proper. Their sessions do not appear to have been, at any time, held at stated and regular periods. When the greater number of the provinces were united under a single head, the necessity was felt of convoking the states-general at the seat of government. States of a similar description were held during the religious troubles: they were com-

posed of deputies from particular states, and to the prince belonged the right of calling them together also. It is important to observe that the portion of national sovereignty not devolved on the head of the state, was not, as one would be at first tempted to believe, transferred to this new assembly. It remained divided amongst the several assemblies of the provincial states ; so that the states-general, in principle at least, was a deliberative council rather than a parliament. In other respects it does not appear that the powers of the states-general of the seventeen provinces were ever exactly specified, and we must recollect too, that at this period an acquaintance with speculative rights was but little advanced. It was every where seen that power was established by the sword, and freedom by energy ; but the science of politics was confined to a chosen few. Time created, modified, and overthrew institutions : hardly could a vestige of the efforts which wrought these changes be traced ; and hence the task of following the progress of liberty among the nations of Europe becomes so difficult ; hence it is that in reading their history, one is so often struck with the sudden appearance or disappearance of such or such establishments, of which the birth and extinction seem alike to have been brought about without the marked concurrence of men.

It is in the partial revolutions, of which the Low Countries were frequently the theatre, down to the sixteenth century, that we should study the influence of the assemblies of states on public liberty and prosperity. We cannot here go into the subject at length ; let us select from the pages of history that which appears best to denote the political circumstances of the period at which we are arrived.

In 1488, Maximilian, king of the Romans, and sovereign of the Low Countries, in quality of guardian to his son Philip, was made prisoner at Bruges, for having encroached

on the privileges of the cities, and threatened the ancient liberties of the people. He attempted to make himself master of the city ; *but, says an old historian**, *the citizens and trades, having assembled in arms, seized him, and lodged and guarded him in the house of Craumbourg, in the name of the members of Flanders, of the states-general, and for their own security ; which they did with all civility and reverence, having all their heads uncovered, and treating him with all deference and respect, seizing and taking away from him his principal counsellors, and treasurers, etc. ; some of these servants of the prince were beheaded, and others transferred to Ghent.*

This event produced a lively sensation throughout the Low Countries. The members of government, yet at liberty, hastened to convoke the states-general at Mechlin, where young Philip then resided, but the assembly, probably to escape the influence which they no doubt wished to exercise over it, formed at Ghent, and thither the deputies of Flanders carried against the king of the Romans forty-seven heads of accusation. The following are the principal :

It was said that he had broken the peace with France, sworn to by him as well as by the states, and that as he had not the power of himself, and of his own authority, to contract it, *much less had he the power of violating it without the consent of the country ;*

That he had dissipated the goods and jewels of the house of Burgundy ;

That he had styled himself lord and sovereign, without mentioning his quality of guardian ;

That he had levied war on the Low Countries, under the pretext of punishing his rebellious subjects, whereas they were not his subjects, and could not therefore be rebels ; and that was the reason why they had been compelled, considering the wrong

* Meteren. Traduction Française, in folio, 1518.

and violence which was done to them, to appeal to their sovereign the king of France ;

That, contrary to his oaths, he administered neither law nor justice in a manner conformable to their privileges ;

That he had granted and sold offices to foreigners contrary to the privileges of the country ;

That he had introduced taxes in Flanders, and levied them by force and with menaces, which taxes had not been unanimously and entirely granted ; a thing which, being contrary to their privileges, even the lord and proprietor could not do, much less a guardian ;

That he had prevented the states-general of the country from assembling as it seemed fit to them ; and that being assembled, he was unwilling they should communicate together for the public good ; that he permitted them merely to *give their opinion* on the propositions for imposts made in the name of the king of the Romans ; and that those who wished to treat of other matters were held as suspected persons ;

That he had coined money at Bruges without the name and arms of his son, their lawful sovereign ; that he had raised the interest thereof without the consent of the states ;

That contrary to their privileges he had established new tolls, which the lord himself could not do without the consent of the country.

The Flemish deputies in demanding a reform of these abuses, excused themselves *that on urgent necessity and for the profit of their true lord, they had been constrained to put the person of the king of the Romans in safe keeping, not for lessening his honour or doing him any injury, for they acknowledged him as the father of their true and lawful prince, to whom in such character they wished to render all due honour and reverence, since in honouring the father they*

*honoured the son, but for preventing the ruin of the country**.

The states-general wished Maximilian to be set at liberty beforehand, but the deputies of Flanders refused this, and the captivity of the prince was at last only terminated by a treaty with his subjects, in which he granted them every satisfaction, and promised to forget what had passed.

Such was this revolution, singular, perhaps, in the annals of nations for the moderation which the people of a province were capable of preserving in so direct an attempt against the sovereign authority.

† We have next to consider the form of government. Down to the reign of Charles V. affairs of state were administered by councils, of which the number was generally fixed at the will of the prince: sometimes they were united in one. A supreme magistrate, entitled grand chancellor of Burgundy, presided over the councils, and occupied the most elevated rank in the state. He was prime minister. This title was suppressed in 1518, and superseded by that of chief of the privy council.

Charles V. established a more uniform government, which existed, with some modifications, until the revolution. He instituted three councils called *collateral*, because they were *ad latus principis*, sat in his palace, and in some measure made a necessary appendage of his crown. These councils were the councils of state, in which the great affairs of the country, such as peace, war, alliance, *etc.*, were deliberated upon; the privy council, especially devoted to affairs of justice; and finally, the council of finance. The letters patent of creation are dated 1531†. Such then, with the municipal system firmly established in the towns, with the states of the provinces, and the states-general ex-

* Meteren, *etc.*

† Mémoires historiques et politiques des Pays-Bas Autrichiens, in 8vo. 1784.

traordinary, were the institutions of the Low Countries. Harmony resulted from this system, the sovereign contenting himself, says the cardinal Bentivoglio, with an authority limited by the rights of the country, and the people with a liberty tempered by the rights of the crown.

A measure, in its origin, anterior to Charles V., was completed in his reign, and tended materially to place the settlement of the state on a firm footing. Maximilian, seeing the empire and the Low Countries subject to his sway, thought it would be good policy to unite these two great parts of his dominion to each other. In consequence he erected the seventeen Belgic provinces into a circle of the empire, called the circle of Burgundy. But in doing this he experienced great difficulties. At first both parties opposed it. The empire viewed with a kind of jealousy a foreign state called by the will of the sovereign to enjoy all the high prerogatives which the members of the German confederation mutually guaranteed each other. In the Low Countries, the spirit of independence natural to the people took alarm at the powerful alliance which was proposed to them. The mere probability of the Germans interfering in the internal affairs of the country was sufficient to make it obnoxious. It was not therefore considered as definitively adopted and passed into a law.

The vigorous arm of Charles V. finished what the circumspect character of Maximilian had only attempted. All difficulties were smoothed by the treaty of Augsburg in 1548, of which the object was to secure to the new circle a protection which might be always useful, and could never be prejudicial to it. This treaty, concluded with the empire, and ratified by the states of the Belgic provinces, declared therefore the erection of the seventeen provinces and county of Burgundy into a circle, on the following conditions :

“ 1. That the said countries, under the protection of the

emperor and the empire, should be associated in all the privileges, immunities, and rights of the empire ;

“ 2. That they should be maintained and defended like the other members of the empire ;

“ 3. That the sovereign of the Low Countries should have a right to send ambassadors, with a seat and voice in the Diet, on the same footing as the archduke of Austria ;

“ 4. That in the contributions of the empire, whether in troops or money, the circle of Burgundy should furnish as much as two electors ;

“ 5. That when war was waged against the Turks, the circle should contribute as much as three electors ;

“ 6. That with the exception of the condition relating to the contributions of the empire, to which the sovereign and states of the circle of Burgundy should particularly agree, the provinces should remain exempt from all obligations to the empire, as well as from every kind of imperial jurisdiction *.” These are the points to which we invited the attention of the reader ; and we will now resume the series of events.

The turbulent disposition of the Belgians did not leave undisturbed the brilliant reign of Charles V. But the disorders which broke out under that prince were transient, and did not materially affect the welfare of the provinces. A storm, however, was gathering. The new religious doctrines agitated men's minds, and continued to gain ground, especially in the northern provinces, in spite of the vigilance exercised by the emperor's government. It was in this state of things that Charles, tired of glory and power, resigned the throne for the cloister.

The reign of his successor Philip II. commenced under happy auspices. The Belgians were attached to his family and showed themselves disposed to serve him with enthu-

* Histoire de l'Empire.

siasm. It was to their fine gendarmery, so renowned under Charles V., that he was indebted for his victories of Saint Quentin and Gravelines, while the person who bore the principal part in those triumphs, the celebrated but unfortunate count Egmont, was also a Belgian. Still it was not difficult to foresee that a foreign war could alone maintain amicable relations between a prince like Philip, whose disposition inclined him to the most gloomy despotism, and a people like the Belgians, in whose national character a love of liberty shone as the most prominent feature.

The peace of Chateau-Cambresis was scarcely concluded before Philip hastened to return to Spain, where the march of his government better corresponded to the suggestions of his stern and sanguinary genius. He conferred the government of the Low Countries on Margaret of Austria, natural daughter of Charles V., giving her as council the famous bishop of Arras, cardinal Granvella. Determined no longer to keep measures with heresy, his formal orders were to extirpate it by fire and sword. The barbarous edicts which Charles V., towards the end of his reign, seemed to have abandoned, were put in fresh vigour; and finally, a *council of blood* (such is the name which was then given it), a tribunal of the inquisition, commenced its proceedings, to convert these fine provinces into an arena of carnage, and instead of destroying, to ensure the triumph of heresy.

From all which has been hitherto said, we may conceive the impression which these measures produced. The agitation that they excited made a rapid progress. Strong representations reached the foot of the throne. The king, at first, appeared to give way, and the cardinal was removed; but this was only still farther to aggravate the evil by appointing for his successor the duke of Alba, a man whose memory will be for ever execrated by every friend to humanity. The governess Margaret demanded and

obtained her recal. The provinces were now entirely abandoned to the sword of Alba. His will decided every thing. All the ancient liberties of the country were violated, all jurisdictions overlooked: scaffolds were every where prepared, and the satellites of despotism, transformed into judges, every day augmented the number of victims.

The dawn, however, of a more happy period was already breaking forth. A man, endowed with an energetic soul and ardent disposition, brooded in silence over the wrongs and calamities lavished on his country. He watched the progress of the public discontent, and meditated a struggle which should overthrow tyranny. This was the celebrated William of Nassau, prince of Orange. Two lords, count Egmont of whom we have spoken, and count Horn, sprung from one of the most illustrious families of the Low Countries, seconded his generous resolves: all hopes were turned towards these three great citizens, and they formed a point around which the hostile and violent feelings that the government accumulated against it, all concentrated.

Some partial associations were formed in the provinces. In 1566, a body of four hundred gentlemen had the courage to present a petition to the governess. The princess evinced some apprehension on seeing the leader of this band so well accompanied: *Fear nothing, Madam*, said a courtier, *they are only beggars!* This expression soon resounded through all the provinces, and helped to unite the scattered elements. The *beggars* entered into a vast confederacy which only awaited the signal for taking up arms. The nobility assumed with enthusiasm the emblems of the *beggardhood*. They wore a grey coat and the humble wallet of the mendicant. A medal was seen suspended from the necks of the most daring, having on one side the king's effigy, and on the other two hands joined, with the motto; *Faithful even to the wallet*. Their escutcheons and valets

were decorated with the same signs. At length the chants of the evangelical assemblies always finished by cries, a thousand times repeated, *the beggars for ever* *.

The duke of Alba thought to overawe the minds of men by increasing his severity. Counts Egmont and Horn were dragged to the scaffold, as if to teach the people to what an extent the confidant of Philip II. could carry his measures. His agents, filled with the savage delirium which inflamed their master, distinguished themselves by the most deplorable excesses ; while to celebrate their sanguinary triumphs, they erected a statue to the villain for whom no tortures would have been too severe a punishment.

The ruinous taxes which he imposed brought his arbitrary government to a conclusion. This was to transgress all bounds, and the insurrection became general. Men flocked to arms from all quarters : even the ecclesiastics declared that oppression ought to be resisted. The duke was recalled. The inhabitants of the provinces, in the sequel, imposed on themselves much more considerable sacrifices than those which were now required from them ; but *they rather chose*, says Grotius on this subject, *to give up all, of their own free will, than pay a tenth contrary to their privileges* †. This reflection is applicable to all ages, and to all nations : it contains a general truth which those in power cannot meditate upon too often.

But the sanguinary Spaniard was recalled too late. The fruits of his violence were already apparent. Civil war had every where broken out, and in the northern parts already assumed a character which promised important consequences. The prince of Orange had betaken himself there, and at the head of the hardy *wassergueusen* (sea beggars) had the year before seized upon the Brill. This success had produced a

* Introduction à la Revolution des Pays-Bas, 1784.

† *Annales de Rebus Belgicis*.

revolution in Zealand. At length the states of that province, as well as those of Holland and Utrecht had assembled at Dordrecht, and acknowledged the prince of Orange as stadtholder in *the king's name*. By their act of union they declared that the provinces could only treat in conjunction; and they made a solemn acknowledgment of Calvinism. A separation in fact was thus effected: but these people, faithful and loyal, were willing to be absolutely forced to break the yoke of obedience.]

The re-action produced in all the provinces in consequence of the success of William, and the retreat of the duke of Alba, led to the pacification of Ghent. That famous act was a union between all the provinces. It was therein declared, that the Spanish troops should withdraw from the Low Countries; that immediately after their departure an assembly of the states-general should be held to restore order in public affairs; that the subjects of all the provinces should be obliged to respect the catholic religion; that the criminal ordinances of the duke of Alba should be suspended; the property confiscated by him restored, and the statues erected to his honour, destroyed. The court of Madrid was obliged to give its consent to this important act, before it could get the governors whom it appointed, acknowledged by the states. The dominion of the Spaniards in the Low Countries appeared on the eve of destruction: their troops had a footing only in a few provinces, while the civil war which, in spite of the arrangements of assemblies and councils, still continued, turned wholly to the advantage of the confederates. The prince of Parma, appointed governor in 1578, changed the face of affairs. His arms reconquered several provinces, and his abilities enabled him to profit from the divisions which broke out among the confederates. William, despairing then of maintaining the general union, conceived the idea of a particular confederacy between those provinces, which

from their situation, seemed the best calculated to resist the attacks of Spain. These were the seven northern provinces, bound together by the same maritime interests, as well as by the principles of the common faith that they had adopted. The act of union was concluded at Utrecht the 29th January, 1579. It established the republic of Holland*.

This first and great dismemberment of the circle of Burgundy terminates our first part. In the second we shall pursue the history of the ten provinces which still continued to form the sovereignty of the Low Countries.

* Wiqueford, preuves, etc.

PART SECOND.

CHAPTER I.—*Down to the Reign of Joseph II.*

WE have but few remarks to make on the interval which elapsed between the foundation of the republic and the reign of this monarch. The history of the *Spanish* or *Austrian Low Countries* certainly merits to be treated at greater length ; but our plan prescribes us limits ; and we are obliged, therefore, to confine ourselves to pointing out the political institutions introduced by sovereigns, and the successive dismemberments sanctioned by treaties.

The situation of the Low Countries at this period was singular. Different influences constantly acted in different ways. The states-general still considered the pacification of Ghent as the law of the country, and they placed at the head of affairs, at one time, an arch-duke Mathias, of the house of Austria, at another a duke d'Anjou of the race of the Valois. On another side, Spain still kept an army in the field, of which the vicissitudes marked those of her government over the provinces. Almost all the states of Europe interested themselves in the quarrel. The Calvinists came from all quarters to chase Philip II. from a country which his ill-judged tyranny had raised against him ; while the Catholics flocked to the standard of a monarch who was the main support of that extensive league which had sworn the extermination of sectaries. Ambitious individuals mixed their private ends with the general views. A chief, a town, a province, ceased to act up to the spirit of union, in order that they might create an individual interest. The confusion was general ; and the country, oppressed by the Spaniards, exhausted by foreigners, and

ravaged by the Calvinists, called aloud for a termination of its sufferings.

At length the prince of Parma, after protracted hostilities and slow negotiations, succeeded in bringing back ten provinces under the Spanish yoke. This distinguished general died in 1592, and the three governors-general who succeeded him only sustained the advantages which he had acquired. In 1596, the cardinal-archduke Albert was invested with this station by the court of Spain. The Low Countries had then time to breathe. Soon after, the peace of Vervins, concluded by Philip II. with Henry IV. delivered them from the hostilities of France. Four days after the conclusion of this treaty, the king made a cession of the Low Countries to his daughter, the infanta Isabella Clare Eugenia, whom he gave in marriage to the cardinal-archduke. The act of cession, dated Madrid, 4th May, 1598, declares that “the king has resorted to this measure, in consideration of the welfare and tranquillity of the Low Countries, in order to obtain a solid peace ; and inasmuch as the greatest happiness which could possibly accrue to them, would be that of being governed under the eye, and in the presence of their prince and lord. *God is witness,* continues the king, *of the pain and solicitude which we have frequently experienced through not having been able to do more in person, as, in truth, we have greatly desired*.*”

This is an edict of Philip II.

Thus commenced the reign of Albert and Isabella. So much blood had not been shed entirely in vain. The example of France, restored to tranquillity, had an influence moreover on the minds of all men. The principles of a prudent toleration replaced in government the sanguinary maxims of the council of Madrid. The result was that memorable truce of twelve years, in which Henry IV. and

* *Memoires Historiques.*

the president Jeannin took so great a part. This truce, signed the 19th April, 1609, consolidated the republic of the United Provinces, and suspended the religious troubles which had now continued nearly half a century.

At the expiration of the truce the war was renewed. It continued with more or less vigour until the treaty of Munster in 1648, which at length terminated this long contest. This treaty abandoned to the United Provinces the territory of Limburg, together with several places of Brabant and Flanders, of which they were in possession. The Scheld was finally closed—a measure which ruined Antwerp, and destroyed the maritime commerce of the Spanish Low Countries. Two worlds, the East and West Indies, on the contrary, were resigned to the enterprising spirit of the Hollanders.

The position of the Low Countries naturally served to render it the seat of war, as often as this should break out between France and the House of Austria. The vicissitudes of fortune, therefore, were capable, every moment, of producing partial dismemberment, and even of entirely subverting a state, which seemed placed there merely to serve as food for the ambition of the European monarchs. The treaty of the Pyrenees in 1659, gained France several districts, and various strong places of the frontier provinces: it showed in a decisive manner the preponderance of that kingdom in the affairs of the continent. In 1667 war broke out anew between Spain and France. Louis XIV. entered the Low Countries at the head of an army, with the design of seizing certain provinces which, he pretended, ought to revert to his crown by the *right of devolution*.

According to this right, the succession to property fell to the children of the first bed, when one of the parties contracted a second marriage. As therefore Maria-Theresa, queen of France, was the daughter of Philip IV. by a first marriage; and Charles II., who had just succeeded this

monarch, was his son by a second marriage, Louis pretended that the queen ought to be put in possession of different countries in which this law appeared particularly to prevail*. The court of Spain replied that this principle of devolution could be only applied to the succession of individuals, and that it could not be opposed with justice to the fundamental laws which established the indivisibility of the state of the Low Countries. These reasons were valid no doubt, but the legions of Louis XIV. were yet more potent, and the campaign of 1667 was almost a triumphal procession. His arms seemed destined to other conquests, when Europe took the alarm, and arrested, by the famous *triple alliance*, the course of his prosperity. This treaty, formed between Great Britain, Holland and Sweden, obliged France to make peace. It was signed in 1668 at Aix-la-Chapelle. Louis XIV. restored his recent acquisition of Franche-Comté, but preserved Lille, Charleroi, Douai, Courtrai, &c., with their dependencies. Four years after, the war breaking out anew, it was terminated in 1678 by the treaty of Nimeguen, which delivered to France, besides Franche-Comté, several towns of Flanders and Hainault, such as Valenciennes, Condé, Bouchain, &c. Finally, the chamber called of *Reunions*, instituted by Louis XIV. for restoring to the crown all the lands which were thought to have formerly depended on Alsace, the three bishoprics and towns of the Low Countries ceded by treaty, having given rise to new hostilities, the contest was once more terminated in 1697 by the peace of Ryswick, which left things in the state in which the treaty of Nimeguen had placed them.

The feeble reign of Charles II. had proved fatal to the Low Countries: It ended in 1700, and the new century opened with that famous war, called of *the succession*,

* *Traité des Droits de la Reine tres-chretienne, refuté par le bouclier d'état et de justice, etc.*

which produced an almost general commotion in Europe. The victories of Marlborough and Eugene chased the French from the Low Countries, which they had at first occupied in the name of Philip V., the grandson of Louis XIV., and now king of Spain. These countries then became the theatre of a revolution which changed the constitutive forms that had hitherto existed. Great Britain and Holland, united by the famous treaty called of *the grand alliance*, established a new government in the provinces. They created a council composed of Flemings, and invested it with the sovereignty in the name of Charles III., the competitor of Philip V. This council, however, was only a nominal government, since it was in fact subordinate to a commission of English and Dutch deputies which bore the title of *the conference*. It was the business of the commission to transmit the wishes of the allied powers to the council, and these wishes, after the semblance of a deliberation, were converted into laws. Such was the dependence of the council that it could not even refuse to repeal certain recent ordinances favourable to the commerce and industry of the Low Countries. The people of the Netherlands were then taught how deplorable is the dominion of a foreigner, especially when that foreigner is a jealous rival.

The peace of Utrecht in 1713, with the treaties which followed soon after, terminated the war of the succession. The French prince preserved the crown of Spain; but the Low Countries were detached and ceded to the emperor, to be possessed hereditarily in his family. This Emperor, Charles VI. was the archduke who had disputed with France the inheritance of Charles II. It was declared by Art. 7, that the provinces of the Low Countries should be given up by the king of France and his allies, with the limits established by the treaty of Ryswick. They were thus placed in the number of states belonging to the imperial branch of Austria: an arrangement which secured Holland

and the empire a barrier against France and Spain, and took away from these powers, now united by the ties of blood, the means that the possession of the Netherlands would have afforded, for attacking them to advantage. As moreover, the spirit of ancient compacts formed of these provinces a particular state which could be in no wise considered as adhering to the Spanish monarchy, and of which the princes of the house of Austria were the natural and legitimate sovereigns, it may be said that the transaction was at once just and politic.

The Low Countries were thus changed into a sovereignty under the government of Austria. By the pragmatic sanction of Charles VI., successively adopted as a fundamental law by the states of the different provinces, and published at Brussels in 1725, in a general assembly of deputies from all the states, they became an integral part of the Austrian monarchy, hereditary and indivisible ; and in this state they remained until the French revolution.

If we reflect ever so little on the history of the last two centuries, it appears evident that this arrangement, however great its convenience, could not but be disagreeable to France. It was always a favourite object in the views of this power to enlarge her boundaries at the expense of the Netherlands ; and had she followed the path which the policy of Henry IV. and Richelieu pointed out to her, it does not seem unreasonable to conclude that she would have succeeded in attaining it. By setting Holland against her, on the contrary, by breaking that long alliance which had proved so beneficial to both states, France created in the councils of the republic a necessity which every year became more incumbent on her, of establishing and maintaining a strong barrier between the territories of that kingdom and her own. Such was the policy which their high mightinesses opposed with invariable success to the arms of

Louis XIV., and which gave rise to the settlement of the *Austrian Low Countries*.

At the period we are now treating of, that spirit of rivalry between the Belgians and Dutch which time has only rendered more sensible, seems to have manifested itself in a striking manner. We have seen that the latter, while governing the Low Countries conjointly with the English, did not conceal their design of sacrificing the commercial interests of these provinces to their own. They then proved that they no longer regarded as sprung from a common origin a people who were yet oppressed by the double yoke of church and king. It was evident that in their eyes, the Low Countries were to be considered merely as an interval which the French would have to traverse before they reached their own frontiers, and the insignificance of which, in other respects, it was their business to promote. The object of the states-general was attained by the celebrated treaty of *the Barrier* concluded in 1715, between Holland and the emperor. "We must regard the treaty of the barrier," says M. Ancillon*, "as the guarantee and completion of all the other treaties signed at Utrecht. The object of this treaty was to secure the Low Countries to the house of Austria, and to facilitate their defence by granting the Dutch the right of garrisoning a certain number of places, and of defending them in case of war. The United States thus gained a more secure frontier; Austria was spared a considerable expense; and Germany acquired a new bulwark against France." This view of the subject is just, but the policy of Holland is far from being wholly embraced in it. That the treaty was directed against the prosperity of the Austrian Low Countries, is evident from a mere perusal of the articles. Hence it was no sooner made public than the clamours against it were universal. The Belgians considered

* Tome IV.

the ruin of their commerce inevitable, when they saw their rivals permitted to keep a body of troops on foot in their country. The states of Flanders and Brabant addressed strong representations on the subject to the imperial court : these representations gave rise to new conferences at the Hague that led to a convention which softened a little the humiliating and burdensome conditions of the treaty of the barrier.

But it was not long before fresh opportunities were afforded Holland for displaying her hostile disposition towards the neighbouring provinces. Some inhabitants of the latter had endeavoured, at the commencement of this century, to establish a direct trade from the port of Ostend with the coast of Guinea and the East Indies. The success of their enterprise excited the jealousy of the Dutch. They pretended that the treaty of Munster prohibited the Low Countries from the commerce of the Indies. The imperial court replied that the stipulation on this point evidently regarded the navigation of Spain only, and could not be understood to affect the Belgic provinces. The discussions were becoming warm, when the emperor, by letters patent of 1722, erected the famous company of the Indies, known under the name of the *Ostend Company*, “for navigating and trading to the East and West Indies, and on the coasts of Africa, as well on this side as beyond the Cape of Good Hope, in all ports, harbours, places, and rivers, where other nations freely traffic.” The Hollanders found no difficulty in drawing the attention of all the maritime powers to this establishment. It was every where apprehended that Austria would become a commercial power ; and the novel spectacle was exhibited of an European league, of which the apparent object was the guarantee of certain political interests, and the real end, the ruin of a society of Flemish merchants.

The conferences between the powers terminated, as

might have been foreseen, in the fall of the company. The emperor at first (A.D. 1727) agreed to restrict to seven years the license of thirty years which he had granted. And finally, 1731, all trade of the Austrian Low Countries with the East Indies was abolished; and to avoid new discussions relative to that of the West Indies, it was agreed that reference should be had on this point to the rules laid down in the treaty of Munster. Thus were the most valuable interests of the Belgic provinces again sacrificed to the cupidity of Holland.

From this time to the reign of Joseph II. the internal administration of the Netherlands remained nearly on the same footing. It was the custom during this interval, as in the time of Philip II., to govern them by a prince or princess of the imperial house. These sovereigns in general ruled their states with equity and moderation, because they soon perceived that it was the only means of ruling them in peace. The fundamental laws were respected; and the institutions created a powerful re-action on public prosperity. A complete table of these institutions will immediately follow this sketch.

As to other points, the circle of Burgundy was become an empty title. The treaty of Munster, it is true, had recognised the Netherlands as members of the empire; but the successive dismemberments which they experienced, at first diminished their contingent for the chamber of Wezlar, and at length the duties to which they were subject, were overlooked, on the ground that they derived no advantage from the union. They never received, in fact, any sort of assistance from the empire.

CHAPTER II.—*Until the Establishment of the Kingdom of the Netherlands.*

THE reign of Joseph II. was a sort of prelude to the great

drama of the revolution. Maria Theresa, towards the end of her reign, had given way to the influence which seemed to impel Europe to a great political reformation. She had commenced important ameliorations, and had levelled the first blow at the privileges of the nobility and clergy of her states. Her son, in ascending the throne, inherited her views. This prince was endowed by nature with a strong understanding: his liberal education and philosophic mind had been enlarged by his travels in several countries of Europe. It was said that a king's greatest happiness consisted in ruling a free people; and Joseph II. wished to enjoy this pure felicity. Unhappily he forgot, that with despotism one can establish nothing, and least of all, liberty. He wished at once to effect a reformation, which, to be durable, ought to be brought about by successive efforts and by time. Such was the object of the famous decrees of 1781, which established the principles of a just toleration with regard to the Greek and reformed Christians, abolished seignorial rights and the *corvée*, &c. The two classes whose interests were at the same moment menaced, coalesced against him. The people, who were not enlightened enough to comprehend and second the views of their sovereign, thought themselves attacked in the chains to which habit had subjected them. The discontent became general: disturbances broke out in various places; and the prince expired, loaded with the maledictions of those whose deliverance he meditated.

To confine ourselves to what particularly concerns the Low Countries in this remarkable reign: the first attempt of Joseph in their favour was directed to the Scheld, which preceding treaties had closed to the commerce of the Flemings. In certain conferences opened at Brussels for terminating some disputes relative to the execution of the treaty of the barrier, he caused it to be notified to Holland, that he would desist from all the pretensions heretofore

sustained by his ministers, provided the republic would grant his Belgic subjects the free navigation of the Scheld and a direct trade with the Indies. He went even farther; for he declared that he regarded these points as decided, and that all opposition on the part of the states-general would be in his eyes equivalent to a declaration of war. The republic, not at all intimidated, urged the faith of treaties, and stationed a squadron at the entrance of the river. Some Flemish vessels which attempted to force a passage were obliged to strike their colours. All this occurred in the year 1784.

War appeared inevitable; though no corresponding preparations were yet made on either side. Europe, as in the affair of the Ostend company, took an interest in this commercial quarrel; and as the force of opinion began to be felt, each party wished to fix it in its favour. Writers entered the list. Linguet published for the emperor his *Considerations on the opening of the Scheld*, and young Mirabeau, instigated by the French ministry, replied. For the Low Countries was urged the law of nature, which willed that a nation should enjoy the free navigation of a river when a great part of its course lay within its territory. On the side of the republic it was insisted, that the industry and labour of the Dutch had rendered the mouths of the river a real property to them. It was said that the safety even of the United Provinces demanded the closing of the Scheld. It was pretended, also, (and it deserves to be remarked) that the commercial advantages which accrued to Holland from the restrictions opposed to the commerce of Belgium, had chiefly determined the states-general to refrain from *making good their claims on the Low Countries*, as having been formerly united to their provinces. The mediation of France terminated this discussion. By the treaty of Fontainebleau, 1785, the treaty of Munster was confirmed. The Scheld was interdicted anew to the Bel-

gians ; and a sum of money freed the republic from all other imperial claims*.

The mortification of the Belgians at the result of this negotiation corresponded to the enthusiasm with which they had viewed the attempts of Joseph in their favour ; and other measures of that monarch soon afforded fresh grounds for complaint. It was in 1786 that the emperor entered upon his new system for the internal administration of these provinces. The Low Countries were divided into nine circles, having each a captain or intendant for chief. At the commencement of the following year, the general government communicated to the provincial states, to the superior tribunals, and bodies corporate, two *constitutive diplomas*, one of which related to the administration, the other to a new judicial order. Many clauses in these decrees openly violated the capitulations and privileges of the provinces. They were passed too without the concurrence of the states—a thing of itself sufficient to excite the alarm of the Belgians, had not the imperative style in which they were framed, rendered their rejection inevitable. One of these diplomas began with the following words :—

“ Joseph, by the grace of God, &c. &c. ; having resolved for the more prompt and regular administration and despatch of the affairs of our Belgic provinces, to give a new form to the general government of the said provinces, We decree, and do ordain, as follows :

“ 1. *We suppress* the three collateral councils and the office of secretary of state, &c.”

Remonstrances assailed the reformer on all sides. The petition of the states of Flanders is remarkable, and may afford an idea of the state of public feeling on the subject. After asking permission to claim at the foot of the throne,

* Soulavie, Mémoires du Règne de Louis XVI., tome V.

execution of the *treaty solemnly sworn to on the day of the emperor's inauguration* as count of Flanders, the deputies exposed in forcible language, all the violations to this fundamental compact, which the execution of the imperial diplomas gave rise to. They concluded thus :

“ For these causes, We come with the most lively and most respectful entreaties to prostrate ourselves at the foot of the throne, and to implore you, Sire, to preserve us in the enjoyment of all the advantages which are guaranteed to us by the inaugural oath of your majesty.

“ To repeal, in consequence, the edicts which encroach on our constitution and our rights.

“ To establish in Flanders a council of appeal, in which the faithful subjects of this province may obtain right and justice by judges versed in their laws and customs.

“ To assure the preservation of the abbies, ecclesiastical and religious chapters, and communities ; to provide regular abbots for such houses as are without chiefs, in the way which has been always observed, and not to institute abbots *in commendam*. Not to suppress religious houses, and to confide to the states the management of such as have experienced this fate in Flanders.

“ To preserve to the magistrates of the respective towns and castlewards the administration of the police and public money.

“ To order that all commissioners shall be subject to the constitution of the country and the state, without being able to encroach in any manner on the rights and privileges appertaining to the magistrates.

“ To preserve the guardianship of minors to the ordinary jurisdiction.

“ To keep up the deputation of the states, and their assemblies in the capital of the province, on the old footing, preserving to them the administration of the public money.

“ Finally, we pray, in case any innovation be judged

necessary, that it be not introduced without the concurrence of the states, who, were it to happen otherwise, could not refrain, the inaugural compact in hand, from remonstrating and protesting against all infractions which might result from it."

The disaffection became yet more general, when it was perceived that the firm resolution of the emperor was to pay no regard to their representations. In several provinces bodies of volunteers were formed, and some states, by refusing subsidies to the government, seemed disposed to place themselves in open hostility. The governors-general (the duke of Saxe-Teschen, and the arch-duchess Mary Christina, mother of Joseph), were soon compelled by the general irritation to declare to the states their intention of *provisionally* re-establishing the ancient institutions. This declaration was contained in a letter dated the 28th May, 1787, commencing in the following terms:—"Very reverend, reverend fathers in God, dear and well-beloved nobles. Having received and examined the representations which you addressed to us on the 15th of this month, we have communicated them to the emperor, proposing to his majesty the measures most conformable to the wishes of the nation; fully confident that you, relying on our cares and our sentiments, as well as on what we have declared and do again declare by these presents, will await with as much confidence as tranquillity the resolution which the present distance of his majesty must necessarily delay."

Events did not correspond to the hopes of the governors. The following day a formidable insurrection broke out at Brussels. An innumerable multitude, armed, and wearing the Belgic lion on the breast, surrounded the palace of the princes, and repulsed their guards. Already had a member of the assembly of the states pronounced the word *republic*: the government thought itself obliged to conform to the public wishes when so violently expressed, and solemnly

proclaimed that all innovations were, and should remain suppressed, and that the ancient institutions should be every where restored. A calm succeeded ; and the emperor, compelled to submit his imperious will to the courage of the people, agreed to every thing.

In an age less recent it may be presumed that these commotions, after such a triumph of the popular voice, would have terminated ; for what particularly characterizes the people, whose history we are treating of, is a sort of restraint even in their most violent measures. But the spirit which was about to shake all the thrones of Europe had already made rapid progress in this country. People dreamed only of independence, and were indignant at the thought of being governed by a foreigner. The triumph which liberty had just gained only served the more to inflame minds elevated with the idea of perfect freedom. A spark was alone wanting to kindle a new conflagration.

Joseph had given way ; but he still preserved the hope of finally accomplishing his designs. He now therefore went to work in a more secret manner, and with that obstinacy which was characteristic of him. He founded seminaries in various places, in which the rising generation, by being instructed in the new doctrines, might be brought over to his measures. Between these schools and those of the ancient and celebrated university of Louvain, a competition ensued which turned wholly to the advantage of the latter, since it was sufficient for the others to have owed their establishment to the emperor, to be rendered unpopular. Joseph, who felt no affection for this university since the part it had taken in the late troubles, sought to humble it by attacking its privileges. The youth undertook its defence, and fresh agitation was excited. Some subsidies demanded by the emperor, were refused by the states of Hainault and Brabant. His indignation no longer knew any bounds. He dissolved the states and the sovereign

council, abolished the *joyous entry*, and even repealed the amnesty which he had previously granted. Several persons were arrested.

The formal design, it is thought, was now conceived amongst that class of persons who affected the name of patriots, of withdrawing their country from the Austrian yoke.

The political sentiments of these provinces underwent a total change. The first disorders were excited in favour of the aristocracy and priesthood against *revolutionary* innovations: now, the minds of men were drawn by other agitators than the emperor towards innovations still more revolutionary. But it is not to be wondered that the plebeians, with whom these revolutionary principles originated, should succeed in changing their character in the eyes of an unenlightened people, or that these last, instructed by them, should aim at the subversion of the constitution, in defence of which, only the year before, they had taken up arms. These rapid fluctuations in public opinion, of which we find examples in the history of every society, deserve to be noticed.

The patriots, however, were not all of the same opinion. The aristocratical party, as they were termed, having in view only a reform of the established institutions, and content to remain under the Austrian government, refused to advance any farther. The more violent republicans, on the contrary, meditated nothing short of the absolute independence of their country. The whole of Belgium was divided between these two factions. The advocate Vonk, and the duke D'Arenburg, were the heads of the aristocratical party. Another advocate named Van-der-Noot, and the penitentiary Van-Eupen, led the republicans. "Van-der-Noot," says M. Segur*, "an advocate without intelligence, an intriguer without genius, but a verbose and bold speaker, the blind instrument of the priest Van-

* *Tableau politique*, tom. 1.

Eupen, a profound hypocrite and skilful politician, inflamed the minds of men in the name of religion and liberty."

A conspiracy was formed, and the two parties entered into it with equal readiness. The plot was at first confined to ten persons, of whom Van-der-Noot was one. Each of these was to engage ten others, and so on. When a sufficient number of associates was thus collected, they were to take up arms in various places, at the same moment, and proceed to drive out the Austrians.

At first the councils of the more moderate party prevailed, and all things went on successfully. A colonel named Van-der-Mersch was appointed general of the confederate forces. The Austrians were compelled to evacuate, in succession, all the places which they occupied. Van-der-Noot, on the 18th December, 1789, made his triumphal entry into Antwerp, and on the 26th of the same month, the emperor Joseph II. was declared by the states to have forfeited his sovereignty, for having violated the *joyous entry*. The example of Brabant was imitated by the other provinces.

An assembly of deputies from all the Belgic provinces met at Brussels, and signed on the 11th of January, 1790, an act by which these provinces bound themselves in a confederacy under the title of the *United Belgic States*. By this constitution a *sovereign congress* was formed by deputies from the provinces: but each preserved its independence, as well as the exercise of the legislative power*. This state of things did not continue long. Intrigues without, and errors within, subverted the new republic at the end of a year; and after experiencing a re-action, a consequence of the divisions which we have before noticed, the Netherlands returned to their obedience. The congress treated with the emperor Leopold. who had just succeeded

* See Constitutive Laws of the Austrian Netherlands.

Joseph II. He engaged to govern according to the ancient constitutions of the country, and to annul every thing which his predecessor had done to the contrary. Those who had taken up arms laid them down one after the other: the principal patriots took to flight, and the imperialists entered Brussels on the 2nd of December. Such was the end of this revolution.

In the mean time France was advancing with rapid strides in that career in which Belgium failed. War broke out between the new republic and the sovereigns of Europe. The Belgic provinces became the theatre of its first triumphs, and yielded in succession to its arms. Finally, on the 1st of October, 1795, (year III.), the union of Belgium and the territory of Liege with the French territory, was solemnly decreed. Nearly twenty years had elapsed when the fortune of war again gave Belgium a change of masters. The allied sovereigns after their victory at Leipsic, having invaded the departments which formerly composed the Austrian Netherlands, received a deputation from the provinces, claiming their independence. The project that was afterwards carried into execution, was already contemplated, and the deputation did not receive a satisfactory reply. The Belgians saw with regret the appointment of a governor-general left to the emperor of Austria: but their fate was soon after ultimately fixed by the creation of the kingdom of the Netherlands, an act of European policy to which we may hereafter have occasion to return.

PART THIRD.

REPUBLIC OF THE UNITED PROVINCES.

CHAPTER I.—*Until William III.*

WE have traced the principal circumstances of that religious and political revolution which brought a new power on the theatre of the world, down to the act of confederation which established it. It now remains for us, setting out from that point, to continue the historical sketch of the Dutch republic until our own times.

The prince of Orange had done much towards the independence of the provinces, in uniting them, by a constitutional bond, in a firm league against the oppressor. But there still remained much to do. The infant confederacy was assailed on all sides, and possessed only feeble means to oppose a colossal power. The Spaniards had restored their affairs in the southern provinces, and were preparing considerable armaments. The Calvinists of France could with difficulty make head against their enemies at home: Germany furnished soldiers only to those who could afford to pay for them; while England, as if she foresaw the future destiny of the republic, seemed inclined to afford her assistance no farther than might be necessary to prevent its fall. It was under these circumstances, and to express the apprehensions they entertained for the future, that the states caused a medal to be struck in which a vessel was seen exposed to the mercy of the waves, without sails and without rudder, with this inscription: *Incertum quo fata ferant* *.

But the genius of the pilot supplied every deficiency. He

* Puffendorf, Introduction to the History of the Universe, vol. iii. cap. vi.

inspired his companions in arms with the resolution which animated himself. The successes of the prince of Parma were counterbalanced, and the prodigious impulse given to commerce soon afforded inexhaustible resources. A second example was thus exhibited to Europe of that incalculable power which the spirit of liberty engenders, and which was destined at a later period to present a still more imposing picture.

Philip, however, incensed at the dismemberment of his monarchy, thought himself no longer obliged to keep any measures with his enemies. He proscribed the liberator of the United Provinces, and promised a reward of twenty-five thousand crowns for his head. The states replied to this violent act by a formal declaration of independence. This took place in the year 1581, up to which time every thing had been done in the name of the king of Spain.

The appeal made to fanaticism was heard. William fell, a few years after, beneath the stroke of an assassin, who was instigated to the action by some monks—a great man, unquestionably, but whom we cannot entirely clear from the reproach of having mixed some views of individual ambition with the aspirations of the noblest patriotism.

His death spread consternation throughout the provinces, but it served still higher to excite that horror which the very name of Philip II. now inspired, and consequently to confirm them in their resolution of shaking off his yoke.

A closer union was negotiated with queen Elizabeth, and her assistance obtained by means of the important cession of the Brill, Raemkens, and Flushing. Finally, this princess sent to the states a governor-general, chosen from amongst her favourites. This was the celebrated Dudley, earl of Leicester, whom, according to some writers, she intended to raise to the throne. This choice was so far fortunate for the republic, that the levity of the English nobleman led him to disclose more easily the secret and

interested designs of his court. The attention of the Dutch was awakened by his intrigues : they watched his conduct with suspicion, and his numerous indiscretions soon afforded room for loud complaints. The earl was recalled, and the general command conferred on young Maurice of Nassau, the son of William, and who had already succeeded him in some of his offices.

The office of stadtholder, which was now finally established, merits some observations. It is evident that the object which the compilers of the act of Utrecht had chiefly in view was to oppose a powerful league against the efforts of the king of Spain. To effect this, they had it not in their power to frame a regular and uniform federal constitution, since a work of this kind would have required a calmer moment ; neither was a close and intimate union of the provinces so indispensable as to justify the risk of exciting a mass of local interests, and setting them in opposition to the general weal. That this would have been the result of any attempt to amalgamate the respective governments is clear from the national character of the people, who have been always distinguished for a scrupulous attachment to their constitutive usages. Under these circumstances it was prudent therefore to prefer *an act of federation* to a *federative constitution*.

What was most necessary, at this period, was that all the forces of the state should be actively directed to one end ; and this could only be attained by vesting a variety of powers in a single person. The fundamental act, therefore, invested the stadtholder with great powers : his influence was such, that on some occasions afterwards, there was nothing but the title of king wanting to render him completely so. The fundamental act contains manifest contradictions on this point, and in fact, it was the manners of the people that in Holland chiefly served to check the tendency of her political institutions. The government was constantly on the point

of degenerating into a monarchy ; but the national character, strongly tinged with republicanism, arrested all the attempts of ambition. The prince and people were constantly reminded of the declaration of 1581, in which it was expressly laid down that the general will may expel the sovereign, when he has rendered himself the enemy of the country by his oppressive conduct.

It might have been foreseen, however, that a magistracy invested with such high powers would continually tend to aggrandize itself, and that in consequence a perpetual contest would ensue between those who might be called to discharge it, and the delegates of the nation, the real sovereigns, according to the fundamental laws. Such in fact is the history of the stadtholdership. We see the princes invested with this title perpetually struggling to diminish the power of the states-general in order to increase their own, a policy, as we shall have occasion to observe, that frequently gave rise to sanguinary excesses.

“ However little we reflect on the constitution of the United Provinces,” says a certain writer *, “ we at once perceive that all the powers of the state had their origin in the regencies of the towns, since their deputations composed the provincial states, as the deputations of these last composed the states-general. It is clear, therefore, that by exercising an influence over the appointment of magistrates in the towns, the stadtholder would have the regencies, and consequently the provincial states and states-general, entirely at his disposal ; and be thus enabled, after being already invested with the most important branches of executive power, to usurp the legislative power also. And such, in fact, was the invariable policy of the stadtholders from William I. to William V. without exception.”

The United Provinces did not, properly speaking, form

* *Mémoire sur la Revolution de Hollande*, by M. Caillard, in *l'Histoire de Frédéric-Guillaume II.* by M. le comte de Ségur, tom. 1.

one republic, but rather a confederacy of several republics, of which each preserved its government, and its share of the sovereignty*. This sovereignty, considered individually, resided in each assembly of states of the seven provinces, and on points of general concern, in the national congress bearing the title of the *states-general*. This assembly, composed at first of the provincial states nearly entire, changed its form towards the accession of Maurice to the stadtholdership. It met but rarely, because the number of deputies, sometimes exceeding eight hundred, rendered the discussions tedious and disorderly. The council of state represented this assembly when it did not sit, and watched over the execution of its decrees. But this arrangement appearing liable to abuse, the provinces required that a permanent deputation should be chosen out of the states which should exercise the share of authority that the constitution assigned to these representative bodies. This proposition was adopted: and there thence came to sit at the Hague the assembly known under the title of the *states-general*, although, in reality, it was nothing more than a representation of that body.

The assembly of the *states-general* has been compared to a council of ambassadors whose engagements must be ratified by their respective sovereigns. This comparison is just enough. Each province, in virtue of the portion of sovereignty which it enjoyed, had a right to refuse by its states consent to the measures adopted by its deputies in concert with those of the other provinces. In this arrangement we perceive the jealous solicitude of a people willing to preserve their particular liberties, even if they compromised, by slowness of action, measures of general concern.

It is necessary to observe, moreover, that just as the relations of the deputies to the *states-general* with their re-

* Grotius Apolog. cap. 1.

spective states, were modified according to the particular constitution of the province they represented, so the political circumstances of the stadtholder were not every where the same. He was the captain and admiral general of the republic, and the depositary of such portion of the executive power as the constitution of each state assigned to him. This distinction is important, and the more so, because many writers, through not having observed it, have failed in rendering their accounts sufficiently intelligible and clear.

Maurice took the following oath : “ I promise and swear to the confederate states of the Low Countries which shall remain in the alliance and defence of the reformed religion, to the high and low nobility, and to the magistrates of the towns of Holland and West Friesland, who represent the said nations, to be faithful and obedient to them ; and that I will myself obey, and will so act that the officers of the army, the captains and others who are subject to our command, shall be obedient to the laws and orders of the confederate states in general, and particularly to those of Holland.”

In a future page the constitution of the United Provinces will be more fully described ; for the present let us resume our narrative.

“ The fortunes of the republic were now established on a firm basis. The valour of Maurice had brought to a conclusion the work which the profound genius of William had contemplated. The seven United Provinces flourished under a government at once strong and free. The population of the new state were distinguished by those simple and uncorrupted manners, by that patient toil and active industry, that strong and determined spirit, which are the best supports of present, and the surest harbingers of future, greatness. The flag of the republic already waved on every sea ; commerce had already raised several towns to a high degree of wealth and importance ; already were those useful works

in the interior planned, and those conquests in both hemispheres contemplated, which proved at once so conducive to its interests and its glory. The mind is struck with astonishment while contemplating this period of the history of Holland. She had commenced her career like Venice ; but in a few years had overleaped the bounds which it cost the Italian republic several centuries to attain *."

Passing over, as foreign to our purpose, the memorable wars of which the Low Countries were the theatre after the death of William, and in which were exhibited the rival talents of Maurice and Spinola ; we hasten to the first important result gained by the constancy of the Dutch, namely, the truce of 1609.

Every thing contributed to this event. Philip II. was no more, and his son appeared inclined to waste in the practices of a minute and indolent bigotry the years which heaven promised his sceptre. Spain was exhausted by the long efforts which she had made to support the civil wars of France and the Low Countries. England and France were advancing in a course of uninterrupted prosperity, and their firm union with the new republic was capable of alarming the council of Castile as to the future fate of the provinces which Spain yet held. These provinces, too, tired of a war which seemed prolonged merely for the gratification of a vain pride, were unanimous in their wish for its conclusion ; and the archdukes who governed them were no less solicitous to obliterate the calamities of war by a mild and tranquil reign. The enemies of Holland were thus gradually brought over to more amicable sentiments ; and as early as the year 1607, there were already some conferences relative to a general pacification.

We have before hinted at the rise of those divisions in Holland which afterwards led to sanguinary effects. Those

* Continuation de l'Histoire de France de Vely.—Henri IV. tom. iii.

who had so resolutely contributed to the deliverance of their country were now ranged under different banners. The celebrated Olden Barneveld, grand pensionary of Holland, was considered the head of the men really devoted to liberty : on Maurice's side were ranged all those enthusiasts in military glory, who were merely solicitous that the Spanish yoke should not be re-established. Barneveld, having detected the ambitious views of the general, opposed them on all occasions with the talents of a consummate statesman, and the virtues of an ancient republican. When the negotiations commenced, the opposite views of these two illustrious personages appeared still more conspicuous. Barneveld thought, and with justice, that nothing more was wanting to the firm establishment of the republic than a few years of peace ; and Maurice, by means of a few victories more, believed himself sure of determining the Dutch to change his stadtholder's baton into a regal sceptre. This division, as may be readily conceived, retarded the progress of the negotiations* ; but the ability of the minister whom Henry IV. had got accepted as mediator (the president Jeannin) finally triumphed over all obstacles, and a truce of twelve years was signed on the 9th of April. France, by this transaction, gave the last blow to the political influence of Spain in Europe, and it was now her turn to exercise a suitable preponderance in the affairs of the continent.

The new republic, at peace with all the world, advanced with rapid strides in the brilliant career which had been opened to it. Its famous East India company was formed in 1602, and already had it poured on the provinces incalculable riches. In the equinoctial seas, its arms had everywhere dispossessed the Portuguese of their acquisitions ; and from the rapid increase of its marine, one could already predict the rank that it was afterwards called to occupy among the nations of Europe.

* *Mémoires et Négociations de Président Jeannin*, 3 vols. in 8vo.

The war recommenced at the end of the truce in 1621, a few years after that religious and political quarrel between the Arminians and Gomarists in which Maurice found an opportunity for destroying Barneveld, and of thus avenging himself of the constant opposition which his projects had encountered in that great man ; an infamous action, and an indelible stain on the memory of this stadtholder.

Maurice died in 1625. Frederic-Henry his brother, immediately after his death, was invested by their high mightinesses with the offices of captain and admiral general. The states of Holland appointed him stadtholder a few days after. The other provinces successively concurred in this election, with the exception of Groningen and Ommeland, which conferred the dignity on another prince of the same family. Frederic-Henry sustained the war with valour and success. His administration was distinguished for justice and ability ; and of all the stadtholders, he may be considered as the one the most free from attempts against the liberties of the republic. This prince died a short time before the conclusion of the treaty of Westphalia. His son William II. succeeded him, and lived long enough to prove that he had no intention of following the steps of Frederic-Henry. He died two years after the conclusion of the treaty of Munster, by which Spain definitively acknowledged the United Provinces as an independent power, and sacrificed the commerce of the Belgic Provinces by closing the Scheld.

CHAPTER II, AND LAST.—*To the Establishment of the Kingdom of the Netherlands.*

THE policy which governed Elizabeth in her intercourse with the United Provinces survived her. This policy, after, as during the reign of that princess, was to assist the republic as far as might be necessary for rendering it a bulwark against the preponderating powers of the Continent, but

striving, at the same time, by underhand means, to check the progress of its commercial prosperity.

The tomb of William II. was the cradle of William III. He was born a few days after the death of his father; and this infant, who was destined to wear a foreign crown, saw himself threatened by a revolution, with the loss of the very dignity which his ancestors had, in some degree, rendered hereditary in his family. The preceding stadtholders had shown their ambitious designs too clearly for the republic not to view their office with jealousy. The opportunity which the minority of William III. afforded was seized for suspending the exercise of it; and soon after the province of Holland not only abolished the stadtholdership, but even engaged to exert itself to the utmost to bring the other provinces to a similar resolution, or at any rate, to determine that the offices of captain and admiral-general should never be vested in the person of the stadtholder of one or more provinces. The administration, therefore, became wholly republican; and the better to assure the continuance of this state of things, it was resolved that the election of magistrates, and the appointment to offices, should for ever remain vested in the towns. The act by which this revolution was brought about is called the perpetual edict, and was passed in 1667. Its principal author was John de Witt, grand pensionary of Holland.

Foreign influence concurred with patriotic zeal towards the abolition of the stadtholdership. Cromwell, through hatred against the house of Orange, which was allied to that of Stuart, had caused a secret article to be inserted in the peace of Westminster, A.D. 1654, by which the states of Holland and West Friesland engaged never to elect the young prince, the son of William II. and an English princess. He had before proposed the union of the two republics in one state, of which the two principal parts should preserve their respective forms of government; and some conferences had been held at the Hague on the subject:

but the promptness with which the protector's proposal was rejected betrayed the real spirit prevalent in the United Provinces with regard to England. There are two things here worthy of remark. The first is that union of the houses of Holland and England, which was always an object of suspicion with the party that affected the patriotic principles and virtues of Barneveld; the second, that steadiness of political views in the councils of Great Britain towards, or rather against Holland, which led the protector to act exactly as would have acted the monarch whom he had dethroned.

The republic, in the mean while, under the happy auspices of John de Witt, became every day more flourishing. Its internal administration was improved; and its commercial empire extended. It was at this epoch that Ruyter burnt the English vessels at Chatham, and carried terror and consternation as far as London itself.

The intrigues of the court of England, and the victories of Louis XIV. changed the face of affairs. It was the policy of Charles II. to see the stadtholdership restored, as it had been that of Cromwell to overthrow it. The party of the house of Orange, therefore, was revived through the instigation of that prince, and fresh troubles were prognosticated. In another quarter, Louis XIV. longed to chastise the insolence of those haughty merchants who had checked the progress of his arms by the triple alliance. He succeeded in severing the bonds which united the feeble Stuart with the republic, and passing the Rhine in 1672, entered Holland. His conquests were rapid. The provinces of Guelderland, Utrecht, and Over-Yssel, were subdued in a few weeks. The French penetrated as far as Muiden, within four leagues of Amsterdam. The republic seemed lost: and some persons even went so far as to propose transporting the seat of government to the East Indies. It was under these discouraging circumstances that the advocates of the stadtholdership acquired additional strength

and energy. Every one exclaimed that a stadtholder, as in the time of William I., could alone save the country. The people, who never heard the name of the liberator of the United Provinces without a sentiment of enthusiasm, replied to this appeal by massacring the two brothers De Witt, and by proclaiming the heir of the house of Orange. It was thus that twenty years of glorious services were repaid, and the stadtholdership restored*.

William was then twenty-two years of age. As if to reward him, before hand, for all that was expected from his abilities, the people required that the stadtholdership, with the offices of captain and admiral-general, should be declared hereditary in his family. The province of Guelderland, the following year, went so far as to offer him the title of sovereign duke. His inclination prompted him to accept it, but policy suggested otherwise; and the other provinces,

* Historians generally agree in attributing the fall of the De Witts to their inveterate opposition to the advancement of the prince of Orange, and to the zeal with which they pursued the interests of their own party to the detriment and even extreme danger of their country. Ever since the death of William II. they had been actively engaged in remodelling the army. The old officers, both native and foreign, who had served under that prince, and were thought to be attached to his family, were carefully removed, and superseded by the sons or kinsmen of burgomasters and other magistrates devoted to their cause. Besides, the treaty of Munster had relieved Holland from the hostilities of Spain, and there did not appear any immediate danger on the land frontiers of the country; while on the sea-side, on the contrary, two wars with England had called forth all the maritime resources of the state. From the policy of the De Witts therefore, and from the foreign relations of the republic, the army, at the invasion of Louis XIV., was found in a totally inefficient state, and the whole country, generally, incapable of resistance. "Their towns," says Sir W. Temple, "were without order; their burghers without obedience; their soldiers without discipline, and all without heart." No wonder then that the people, seeing their country, which had resisted all the efforts of Spain for upwards of half a century, overrun and conquered in a few weeks by France, should consider themselves betrayed, and turn for relief to that family which had before so nobly protected them. Vide Sir W. Temple, *Observ. upon the United Provinces*, c. viii. *Description of Holland*, anon. 1743.—E.

who had witnessed with astonishment this inconsiderate offer, resounded with his praises.

The talents of the new stadtholder, assisted by the errors of France, saved the republic. His energetic measures at first opposed some resistance to the French arms ; and soon after, a league was formed which obliged Louis XIV. to retrace his steps, and evacuate Holland. The war was terminated by the peace of Nimeguen in 1678, by which the republic recovered Maestricht, the only town which France held at the time.

The repeal of the perpetual edict, and the project for declaring the stadtholdership hereditary, seemed to forbode a great change in the constitution of the republic. It appeared on the point of degenerating into a sort of representative monarchy. William knew how to avail himself of the public gratitude for establishing, on a sure foundation, the power with which he had just been invested. Under the pretext of punishing the provinces which had shown a disposition to detach themselves from the confederacy, by the reception they had given the French, he contrived, either by address or violence, to deprive them of the right of electing their magistrates, and to make it a prerogative of the stadtholdership. These provinces were Guelderland, Utrecht, and Over-Yssel. It will be at once seen, from what has been before observed, that the stadtholder gained by this measure a real sovereignty over three sevenths of the republic, that is, over a considerable portion of the states-general, which was necessarily devoted to him, because it sat there chiefly by his influence. The act which invested the prince with these important prerogatives is called the *Regulation of 1674*. Finally, one year before the peace of Nimeguen, William espoused Mary of England, daughter of the duke of York. He sought, in this measure, like his predecessors, to establish his power on an alliance with the British crown. But considerations of

profound policy had no doubt their influence in determining the stadtholder to a union which he knew could not but be offensive to the Dutch. It is probable that he saw in it the source of his future grandeur, and of that fortune which was destined to affect all the political relations of Europe.

His hopes were realized in 1688. He was called by the national voice to the throne of England. Two states, often enemies, and always the rivals of each other, were thus united under the same sceptre. This increase of power could not fail to augment the preponderance of William in the affairs of the republic; and hence it was said that he was a king in Holland, and a stadtholder in England, where his reign was far from being tranquil.

The war of the succession broke out, and the stadtholder found a fresh opportunity for increasing his authority by a privilege still more formidable than the regulation of 1674. The principal movements of the troops, according to the constitution, were obliged to be submitted by the captain general to their High Mightinesses—a form, it must be acknowledged, which could not but be subject to great inconveniences, since it prevented that celerity which is so essential in war. William succeeded in removing this inconvenience, and obtained from the states-general the power of disposing of the army as he thought proper, without being obliged to make a previous reference to their decision.

This concession was at first made for *one campaign* only: necessity kept it in vigour during the following campaigns, and it at length became a right *de patentes*, which remained attached to the stadtholdership until the extinction of that dignity.

William died in 1702; and the patriotic party, who had trembled for the freedom of the republic during the government of this stadtholder-king, had sufficient credit once more to restore the perpetual edict, and to cause the stadtholder-

holdership to be abolished. The general direction of affairs was anew confided to their High Mightinesses, and proved no less successful than that which they had exercised previous to the accession of William III. The war, after being sustained with courage, was terminated by the peace of Utrecht; and two years after, the states-general concluded the famous treaty of the barrier—a treaty represented by some as a transaction of the most profound policy, and by others as an affair of complete insignificance.

The second war of the succession, which commenced in 1740, at the death of the emperor Charles VI. occasioned a new alteration in the government of the republic. The Dutch arms being unsuccessful, the partisans of the stadtholdership thought a favourable opportunity afforded for exciting discontent. Loud complaints against the government were every where heard, and the people, always inconstant in their wishes, replied as before by calling aloud for a stadtholder. Zealand gave an example which all the provinces successively followed; and in the space of fifteen days, the revolution was completed. The stadtholdership was restored, and with it, all the prerogatives arrogated by the last stadtholder. They went still further, and formally decreed, in favour of William IV. what had been only proposed for William III. The dignity of stadtholder was declared hereditary in the house of Nassau-Orange, in the younger branch in default of the elder, and even in females in default of line masculine. This constitutive law, A. D. 1747, was passed by the states of Holland and West Friesland, on a motion made by the body of nobles*. It completed the system of encroachment which constitutes the very history of the stadtholdership; and there now remained nothing more than a title to change. It may be conceived, however, with what feelings those who still

* Abridgment of the History of Holland by M. Kerrent, t. IV.

preserved the sentiments of Barneveld and John de Witt viewed a resolution which suspended the sword of captain general of the republic to the cradle of an infant girl. The prince who afterwards became William V. was not yet born.

The stadtholder's court now assumed all the outward signs of royalty. The people forgot the time when those grand pensionaries, before whom the pride of monarchs was humbled, had for their sole escort but a single valet*, and scrupled not to encourage all the innovations of the chief magistrate. The stadtholder, king as in reality he was, saw even in his title the pledge of a popularity which might still be serviceable to him. It was this which induced Frederic the Great, when conferring his niece in marriage on William V., to say to her: "You are fortunate, my niece, you are going to settle in a country where you will meet with all the advantages attached to royalty, without any of its inconveniences."

The reign of William IV. was distinguished by fresh attempts to govern the election of the regencies in the towns. "Among the means contrived by the stadtholder for effecting this object, he fixed upon that of writing letters to the towns about the time of election, in which he recommended the persons whom he thought the most devoted to his interests. The usage of these letters, thus introduced, after a certain number of years, came to be styled, by the stadtholder's party, the *right of recommendation*†." These arbitrary attempts, however, were resisted by several provinces; and it might have been foreseen, that if the stadtholder sought to over-heap the measure of encroachment, there was still a point beyond which he could not go, without endangering the very existence of his office.

* Sir William Temple's Remarks on the United Provinces.

† Mémoires de M. Caillard, etc.

William IV. died in 1751. The son who succeeded him under the title of William V., was then only three years of age. His mother was first invested with the office of guardian, and at her death, the duke of Brunswick-Wolfenbutel. An English princess, and a German prince, were thus successively intrusted with the administration of the republic ; and the young prince learned in their school to consider his government as essentially subject to a foreign influence.

Nevertheless, the patriotic party gained ground, and increased in energy, as the pretensions of the stadtholder became more open and unreserved. It collected sufficient strength to expel the duke of Brunswick, who had endeavoured to maintain himself at the head of affairs even after the prince's majority, by causing him to sign the *act* called *of consultation*. A strong opposition was formed against the young stadtholder himself, who appeared inclined to overleap all the bounds which his predecessors had hitherto respected.

The schemes of encroachment on the part of the stadtholder, as we have elsewhere observed, had always found auxiliaries in the English. This disposition on the part of Great Britain was more clearly exhibited at this period, when more intimate bonds of union existed between the two cabinets. It was at London that the political conduct of William V. was traced ; and from London emanated the policy which left the marine to decay and concerned itself only with the land army. England, in fact, by rendering absolute a stadtholder who was devoted to her, could hope to govern the United Provinces through him ; and she well knew that to ruin their marine was, ultimately, to ruin their commerce. France, on the contrary, necessarily wished that the marine and commerce of Holland should prosper, that she might find in her a counterpoise to the power of Great Britain. The patriotic party, therefore, naturally directed their views towards France, where, more-

over, the dawn of a political regeneration, was now beginning to appear. Such was the state of affairs. All the wishes of the Dutch people were turned towards France, and all the interests of the stadtholder leaned for support on the British crown*.

We cannot wholly exculpate William from the charge of a criminal connivance with the English government during the war which terminated in 1783. He prevented, ostensibly, the sailing of the Dutch fleet from the Texel, and from effecting its junction with the French squadron at Brest. Two years after he endeavoured to throw impediments in the way of a negotiation between France and Holland, by which the states-general, following the principles of an enlightened policy, sought to establish a durable alliance with France. The treaty of Versailles was concluded in spite of his intrigues, and served to give additional strength to the public discontent.

* The charge here endeavoured to be fastened upon the stadtholders of having concurred with the designs of the English court in a systematic neglect of the marine, is groundless and unjust. The navy of Holland continued to be most respectable till the æra of the French revolution. It never reckoned less than a hundred ships of war, besides galleys and smaller vessels, and if it was not, as formerly, powerful enough to cope with that of Great Britain, it was not that the number of the ships of Holland had diminished, but that those of the latter power had increased beyond all calculation. Her *relative* and not her *actual* strength had declined. As to the union of the house of Orange with the English throne, it is notorious that the growing power and ambition of France first rendered it necessary, and that it was cultivated by the stadtholders as the only means of securing the independence of their country against the designs of that power. Finally, if the house of Orange can be at all charged with encroaching on the public liberties, it must be at least acknowledged that the circumstances of the state afforded them but too much reason for it. Threatened by a powerful enemy without, and disturbed by factions within, the government of the stadtholders was one continued struggle to give effect to their measures of defence by uniting the scattered and discordant elements of the constitution—not to mention that the opposite party, when in power, were not at all more scrupulous as to the means of maintaining themselves there, and that the people always returned with enthusiasm to the government of the stadtholders.—E.

The contest between the stadtholder and the nation commenced. The provinces in which his rights were the most extended by the *regulation of 1674* gave the signal. Utrecht began by abolishing that ordinance. This was done without a single act of violence, although several meetings of the citizens were held to promote it—another instance of that peculiar character of moderation which has in general distinguished even the seditions of these thoughtful and phlegmatic people. The province of Guelderland followed the example of Utrecht. But William, relying on the support of the states of this province, which were devoted to him, endeavoured to suppress public opinion by force of arms. The province of Holland, upon this, ordered the provisional suspension of his functions of captain-general—a measure with which it had before threatened him. Preparations for a civil war now commenced on both sides: Holland with that part of the army of the republic which she was charged with maintaining: William with the regiments of Guelderland only, for Friesland, Groningen, Over-Yessel, and Zealand, had forbidden the stadtholder employing their forces in these internal disputes; and a division had existed in the states of Utrecht ever since the last disturbances. The clergy and nobility sat at Amersford, and the town of Utrecht refused to pay the troops of the province.

The states-general, in the mean while, preserved but little influence, and the interference of France, England, and Prussia, served to increase the confusion. Prussia had of late taken a decided part in the affairs of the republic. She now sent a minister under the title of *mediator*, a term which did not fail to give high offence to the states of Holland, inasmuch as there is no room for mediation except between sovereigns and equals, and the republic, alone sovereign, could not endure to be placed on a level with its first subject.

The republic was now divided into four parties. 1. That

of the stadtholder ; in which were ranked the states of Guelderland, and the states-general ; the province of Holland, relying too much on itself, not having taken the precaution to secure a majority in that assembly ; 2. The aristocratical faction, whose wishes inclined them to unite their strength to that of the other enemies of the stadtholder, provided their order were respected, and enriched, moreover, with the spoils of his office ; 3. The patriots of the old stamp, whose design was to reform the abuses of the stadtholdership without abolishing the office itself ; 4. and lastly, the popular faction, intent on subverting every thing, and whose inconsiderate violence had proved already but too favourable to the cause of the enemies of public liberty.

Disorders broke out at several places ; and in this, as in former instances, the gold of England assisted the intrigues of the stadtholder in exciting the populace against the patriots. They abandoned themselves, in several places, to every excess. The states of Holland, with the view of quelling these disturbances, instituted a species of dictatorial commission, which sat at Woerden, and was charged also with the duty of providing for the defence of the country.

Prussia had hitherto refrained from any immediate interference in these unhappy disputes ; but a single circumstance at once changed the nature of her relations with the republic. The princess of Orange, having presented herself, on the 28th of July, 1777, on the frontiers of Holland, with the design of travelling to the Hague, there to assist in the restoration of peace, was arrested by the commandant of the post, and being respectfully conducted to Schonehaven, was thence obliged to return to Nimeguen ; the sovereign commission refusing her admission into Holland, on the ground that her presence would only serve to excite fresh irritation.

All Europe resounded with this pretended violence, and the new king of Prussia, Frederic William II., demanded satisfaction for the insult offered to his sister. The negotiations opened on this subject, led to no result. Holland, thinking that she might rely on the support of France, would not submit to the haughty dictation of the German prince. But the French government, already uneasy as to the internal affairs of the kingdom, and undecided in its steps, lost sight of the great interests of foreign policy. It shamefully abandoned the ally whom its promises had exposed. The patriotism of a few was left to contend alone with England and Prussia, the populace and stadtholder. They were obliged to yield. Twenty thousand Prussians, who only waited for a pretext, entered Holland under the orders of Brunswick. The stadtholder's party immediately arose on every side. A violent insurrection broke out at the Hague, and the stadtholder entered that place in triumph. His decrees completed the revolution, while the Prussian arms finished the conquest of the country. He changed the regencies, and the regencies sent new deputations to the states. A majority in the latter assembly was soon secured. All the measures that had been decreed against him were revoked; his dignity was restored; and with all the prerogatives that he and his predecessors had conquered from the republic.

France was a tranquil spectator of the scene. She negotiated with the British court on the means of perpetuating the peace between the two countries by each laying down its arms*, and declared that she harboured no resentment for what had passed. There no longer existed any obstacle to the views of the powers which protected the stadtholder. The states-general were easily induced to abandon an alliance which had proved so fatal to them, and to adopt

* Hertzberg, tom. 11.

that which necessity imposed. By treaties concluded between Great Britain and Prussia, A. D. 1788, the republic (if that title be still applicable to it) was placed under the *guarantee* of those two powers. Prussia, it must be observed, had merely performed the part in this affair which the policy of England assigned to her, and had only assisted in bringing about a result long meditated.

Such was this revolution. The arms of France effected a new one some years after. Holland was invaded and conquered in 1795. The stadtholder was obliged to fly. His office was abolished; and the *Batavian republic* established.

William, by a treaty with France, A. D. 1802, renounced his title of hereditary stadtholder for an indemnity in Germany, which was taken from his son William Frederic at the time the confederation of the Rhine was formed. He died in 1806. When Napoleon assumed the crown of Charlemagne, he wished also to give the Batavians a sovereign. The prince of his family who became king of Holland endeavoured to do good, and descended from his throne when he found that he was only permitted to be the blind instrument of an arm of iron*. Holland was then united to the French empire.

This empire fell from its own weight. The allied sovereigns had scarcely crossed the Rhine in 1813, when symptoms of disaffection were manifested both in the provinces of the old republic, and those which had formerly acknowledged the Austrian government. The party of the stadtholder revived; and William Frederic, supported by the foreign monarchs in whose ranks he had fought, appeared at Amsterdam, and was there on the 3d of December, proclaimed *sovereign prince of the United Netherlands*. The same prince, the year following, signed a convention, by

* *Mémoires et Documens, &c.*, par Louis Bonaparte, 3 vol., 1820.

which the allied powers made a cession to him of the *Austrian Netherlands*, to be united to his former dominions, and to compose together with them, *the kingdom of the Netherlands*.

The seventeen provinces of which the fanaticism of Philip II. had caused the division, were thus again united: thus was an ancient republic ultimately destroyed; and a new power introduced among the states of Europe.

CONSTITUTIVE LAWS OF THE AUSTRIAN NETHERLANDS.

DRAWN FROM THE PUBLIC ACTS AND PRINCIPAL WORKS
RELATING THERETO.

Title I. *Government in general.*

§ 1. *Of the Sovereignty.*

THE provinces of the Low Countries form a state indivisible and hereditary from male to male, in the house of Austria*: notwithstanding each province preserves its old form of government, and cannot be bound by laws enacted by another.

The sovereignty of each province resides in the will of the prince ratified by the states.

The Low Countries have one governor-general, who exercises the authority belonging to the sovereign in his name, and in the same form and manner as the sovereign could himself execute the said authority.

§ 2. *Of the Government.*

In the Low Countries are three councils; the council of state, the privy-council, and the council of finance: all are subordinate to the governor-general, and are intended to assist him with their knowledge and experience†.

§ 3. *Of the Council of State.*

This council is composed of counsellors of the army and

* Pragmatic of Charles V. in Wiquefort, folio.

† See constitution established by Charles V. 1st October, 1531, and re-established in 1725 by Charles VI.

the law. The grand master of the court and the commandant at arms shall be present whenever it be judged necessary.

In the council of state are discussed the most important affairs relating to the state, and to the government of the country*.

The number of counsellors is unlimited: the right of appointment is vested in the sovereign.

§ 4. *Of the Privy Council.*

To the privy council belong the superintendency, direction, conduct and inspection of the whole administration of justice and police in the Low Countries†; it deliberates on the emission of new laws and interpretation of the old: to it is assigned the duty of watching over and preserving the authority, prerogatives and supremacies of the state with regard to its temporal rights, and of assuring the due enforcement of the said rights when threatened with encroachments either from within or from without.

The privy council cannot take cognizance of any cause, sit upon any suit or litigation, or deliver judgment thereon, in the usual course and order of justice: It must observe the same rule with regard to appeals in such causes as have been already brought before the courts or tribunals of justice, unless by a special delegation from the sovereign or governor-general, and in the case of a disputed jurisdiction between tribunals which have not the same superior judge.

The president must report to the governor-general every thing of importance which is treated of in the council, to to be determined upon by him. This council is charged,

* Of late this was little else than an honorary council: the affairs of its jurisdiction were discussed in the privy-council or in special juntas.—*Mémoires Historiques*, tom. II. chap. xvi, art. 4.

† See the letters patent of Charles V., 1531, and 1540; Declaration of Philip IV., 1651; Edict of Charles VI. 1725, &c.

under the orders of the sovereign or his governor-general, with the principal direction of the finances.

Ordinances concerning the imposition and collection of import duties belong to the council of finance: they are sometimes promulgated in the name of this council only, sometimes in the name, and under the signature of the governor-general.

Title II.—*General Rights and Privileges of the Provinces.*

§ 1. *Rights common to all the Provinces.*

The people cannot be burdened with taxes without the consent of the states of the provinces. Every one must be tried by his proper judge: no person can be judicially made to appear out of the limits of the country, especially at the suit of the Roman see.

§ 2. *Brabant and Limburg.*

The sovereign at his accession, and before the states of the provinces, promises upon oath to adhere to the joyous entry, sworn to by the empress Maria Theresa in 1744. The regulations contained in the joyous entry are common to the inhabitants of the two provinces. This instrument declares:

“ Her majesty will be to them a good, equitable and
“ loyal lady*. She will govern them neither by force,
“ nor will, nor otherwise than by the regular course of
“ law, and before the ordinary judges.

“ She will not undertake any war on behalf or con-
“ cerning the countries of Brabant and Limburg, except
“ with the consent of the towns and country of Brabant:
“ She will not form any engagements tending to abridge

* We give here the tenor of that act, such as it was promulgated by the empress.

“ the limits, or to diminish the rights, liberties and privileges of the same countries.

“ There is a particular seal which shall always remain in Brabant, and with which every thing concerning the countries of Brabant and Outre-Meuse must be sealed. This seal cannot be used for other purposes.

“ Her majesty shall compose her council of Brabant of seventeen persons, of whom fifteen shall be Brabangons, and qualified, by possessing either in their own right, or in that of their wives, a barony by inheritance. The two others, provided they understand the Flemish language, may be foreigners. The despatch of all affairs concerning justice and what relates thereto, in the countries of Brabant and Outre-Meuse, shall be vested in this council.

“ All the officers of Brabant, including those of the flat country, the burgomasters and sheriffs of towns, and all others who administer justice, either in her majesty's name or in that of her vassals, shall take an oath to observe the joyous entry.

“ The countries of Limburg and Outre-Meuse shall forever remain united to Brabant.

“ Those who farm the market taxes of her majesty, or have any part therein, cannot be received, while they continue to farm the said taxes, among the magistrates of the towns ; no more than those who have any part in the coinage.

“ No one apprehended in the territories of Brabant and Outre-Meuse can be led a prisoner out of the same.

“ Her majesty cannot coin money of any description in Brabant, except with the advice and consent of the states ; whose regulations on this head shall suffer no alteration.

“ Her majesty shall have no power, except with the consent of the states, to grant pardon, so far as to

“ permit their residence in the same country, to those
“ who shall have incurred forfeiture of body and goods
“ for having treasonably conspired against her majesty,
“ her countries of Brabant and Outre-Meuse, or to such
“ as shall have given aid to the enemies of the said
“ countries.

“ The towns and territories which her majesty may add
“ to her country of Brabant by right of conquest, effected
“ by the arms of Brabançons, shall remain united thereto,
“ and enjoy the privileges of Brabant.

“ The liberty of the chase is acknowledged through all
“ Brabant, with the exception of such warrens as are fixed
“ upon by law.

“ The town of Antwerp, its appurtenances, and dependen-
“ cies, shall remain for ever united to Brabant, in the
“ same manner as the town of Nivelles.

“ Her majesty will not grant any privileges to nations
“ having a station or factory in her territory of Flanders,
“ which might turn to the disadvantage of her territory or
“ people of Brabant.

“ No abbey, prelacy, or dignity, shall be conferred *in*
“ *commendam*, and her majesty will use her interest to
“ obtain from the see of Rome a reduction of the first
“ fruits, provided that the prelates and monasteries charge
“ themselves with the expense necessary to effect such
“ reduction.

“ Her majesty confirms in general to the prelates, nobles,
“ towns, and to all her subjects of the countries of Bra-
“ bant and Outre-Meuse, all the rights, franchises, privi-
“ leges, charters, customs, usages, and other rights, which
“ they possess, and which have been granted them by the
“ dukes and duchesses of Brabant, as well as those which
“ they have enjoyed and used, particularly the additions to
“ the joyous entry of duke Philip the Good, of the 20th of
“ September, 1451, and of the 18th of November, 1447, as

“ well as the additions of the Emperor Charles V. of the
 “ 12th and 26th of April, 1515.

“ If her majesty cease to observe the privileges con-
 “ firmed, either wholly or in part, she agrees that in this
 “ case her subjects shall cease to discharge their duty
 “ towards her until reparation has been made for the
 “ violation of the said privileges. The officers appointed
 “ contrary to the enactments of the joyous entry shall be
 “ immediately dismissed.”

The sovereign promises to secure her subjects against all undue exercise of the ecclesiastical jurisdiction*. The spiritual courts for Brabant shall be established in the province†.

Claimants in mortmain cannot acquire immoveable property in the territories of Brabant and Limburg, without the consent of the sovereign and lawyers of the chief towns under which the property is situated.

The privileges granted by the *golden bull of Brabant*‡ are guaranteed. Consequently all princes, ecclesiastical or secular, judges and tribunals of the empire, are prohibited from exercising any jurisdiction over the inhabitants of the duchies of Brabant, Limburg and their dependencies, from citing, summoning, or arresting them, in person or goods, in any case whatever, criminal, real or personal.

The execution of the bull is committed to the council of Brabant§.

§ 3. *Guelderland.*

A chancery for the administration of justice is established in the province, and no person can be subjected to a foreign

* Addition by Philip the Good, 1451.

† Second addition of Charles V., 26th April, 1515.

‡ Granted in 1349 to John III., duke of Brabant, by Charles IV., confirmed by the Emperor Sigismund in 1424, and by Maximilian in 1512, &c.

§ Confirmation by the Emperor Charles V., 3d July, 1530.

jurisdiction*. The privilege *de non evocando* granted the inhabitants of Guelderland with regard to the empire, is confirmed.

The treaty of Venloo, containing the privileges of the province, is confirmed upon oath by every sovereign at the time of his inauguration.

§ 4. *Flanders.*

Subjects natives of provinces in which Flemings are excluded from employments, cannot in return be admitted to any employment in the territory and county of Flanders. Lieutenants or governors, and knights of the golden fleece, are excepted from this restriction†.

The part of Flanders ceded to France by the treaties of Aix-la-Chapelle, and Nimeguen, and ceded back again to the house of Austria, continues on the same footing, with respect to subsidies, as under the French government. The annual and ordinary subsidies are there imposed by the sole authority of H. M.: extraordinary subsidies require the consent of the states.

§ 5. *Hainault.*

A foreigner cannot hold a public employment in Hainault unless he has resided there ten years, and is a native of a province in which the subjects of Hainault are reciprocally admitted to public offices.

§ 6. *Namur.*

Subjects born in provinces in which the inhabitants of Namur are not permitted to hold offices and public employments, are excluded from every employment in Namur. An

* Art. 5. and following of the treaty of Venloo. The privileges of this province are contained in that treaty, by which Guelderland acknowledged the government of Charles V. Sept. 12, 1543.

† Act granted by Charles V. May 7, 1555.

exception, however, is made in favour of governors and knights of the golden fleece.

Title III.—*Of the States of the Provinces.*

§ 1. *States of the Provinces in general.*

The power of the states is limited to the right of consenting to taxes. They exercise an economical administration without jurisdiction, without any attribute of public authority.

They are the representatives of the body of the subjects; they cannot meet, in any case, without an express convocation on the part of the sovereign.

The states of every province appoint a certain number of deputies, to take cognizance of public affairs in the interval between the assemblies of the states.

Taxes are levied in the name, and by authority of the states.

§ 2. *Of the States of Brabant.*

The states of Brabant are composed of prelates, nobles, and deputies of towns. The members of the states, who compose the first order are: 1. the archbishop of Malines in his quality of abbot of Afflighem; 2. the bishop of Antwerp as abbot of Saint-Bernard; 3. The abbots of Vlierbeck, Villers, Saint Bernard, Saint Michael, Grimberghen, Parc, Heylissem, Everboden, Tongerlo, Diligem, Saint Gertrude.

A nobleman, to gain admission to the states of Brabant, must have at least the title of baron, derived from a lordship situated in the province; a revenue of not less than four thousand florins for a baron, ten thousand for a count or marquis, and twenty thousand for any more elevated title. Nobles must prove, moreover, that they are noble by four descents, and of a nobility ancient in name and arms, reputed and received for such in the colleges and noble

chapters, without being able to derive any advantage from the circumstance of a member of their family having been formerly received in the ranks of the nobility.

The nobles are ranked according to the title of the lordship which gives them a right of admission to the states, so that a duke who enters therein in virtue of a barony takes his seat among the barons.

Rank between such as have the same title is regulated according to the date of the oath taken in the assembly of the states.

For forming the third estate, the right of sitting in the states is attached exclusively to the four chief-towns, Louvain, Brussels, Antwerp, and Bois-le-duc*.

The choice of deputies is vested in the magistrates; and each of the said chief-towns can send to the general assembly of the states as many deputies as it thinks proper.

The prelates and nobles, of their own authority, have a right to adopt resolutions on the affairs which are treated of in the assembly of the states; but the deputies of the towns must render an account thereof to their principals, and receive their orders.

No resolution can be adopted except with the common consent of the three orders†.

An extraordinary assembly of the states may be convoked whenever the service of the sovereign, or the wants of the people require it.

The deputation of the states sits at Brussels: their secretary (greffier) is present, as well in the general assemblies, as in those of the deputations; he proposes affairs for dis-

* This right ceased with regard to the last, when in 1629, it fell under the government of Holland.

† This usage, in other respects immemorial, does not appear to be founded in right; but the prelates and nobles in adopting a resolution, especially when it related to aids and subsidies, always took care to annex this clause, *on condition that the third estate agrees, and not otherwise.*

cussion, and exercises the functions of *actuary*, but has only a consultative voice.

The taxes are levied by the states, and lodged in the hands of their receivers.

§ 3. *Of the States of Limburg.*

The province of Limburg comprehends the duchy of that name; the country of Fauquemont, Dœlem, and Rolduc, that is, the three countries of Outre-Meuse.

These four districts have each a separate body of states, all of which may be convoked together. Propositions also are laid before the whole together as if they composed but a single assembly: notwithstanding, each takes its resolutions separately.

The states of Limburg are composed of ecclesiastics, nobles, and deputies from the banks or villages: no ecclesiastical members sit in the states of Fauquemont. The members who represent the clergy are the abbots of Rolduc and Voldien, and one deputy from the chapter of Notre-Dame of Aix-la-Chapelle.

The nobles must be descended of ancient nobility, and must possess, in the district where they desire to be admitted, a property conferring the rank of noble, with high, mean, and low justice.

The states have nine ordinary deputies in the three orders for the duchy: there is one secretary for the ecclesiastics and nobles, and a separate one for the third estate: the three districts of Outre-Meuse have a single secretary.

In the duchy, the ecclesiastics and nobles composing the states have a receiver-general chosen by them: the third estate has none. Each community pays its quota directly to the receiver-general of the subsidies established by his majesty in that province. There is besides a receiver, on the part of the states, for each of the three districts of Fauquemont, Dœlem, and Rolduc.

§ 4. *Of the States of Luxemburg* *.

These states are composed of ecclesiastics, nobles, and deputies for the towns, forming the third estate. The ecclesiastics are the abbot of Saint Maximin, those of Munster, Echternach, Orval, with the prior of the monastery des Ecoliers. The nobles must prove their nobility by two descents on the paternal side, and as many on the maternal. No person can be received in the states before the age of twenty-five. The father and son cannot be at the same time members of the states, unless the son be married, has a distinct family, and is possessed of an estate with a right of high justice. Every candidate must besides make it appear that he possesses an estate with a right of high justice in the province of Luxemburg, and under the government of His Majesty.

He whose father, grand-father, great-grand-father, and great-great-grand-father, in masculine legitimate line, have been noble and held for such, at least during the last hundred years, without having committed any act derogatory to their dignity, is to be admitted to the estate of noble, provided he proves that among the said four noble ancestors there have been two noble alliances: in which case, and in consideration of the ancient nobility of the province candidates of this description are dispensed from the obligation of showing proof of nobility by four descents.

The third estate of this province is composed of a deputy from each of the fifteen following towns: Luxemburg, Arlon, Bidburgh, Echternach, Dickrich, Grevenmacher, and Remich, of the German quarter; and Durbuy, Bastogne, Chiny, Hofalize, Marche, Neufchâtel, La Roche, and Virton, of the Walloon quarter.

The three orders composing the states of Luxemburg adopt their resolutions, each according to the plurality of

* The county of Chiny has been incorporated in the duchy since 1364.

votes : as for the resolutions of the body of the states, in the matter of aids and subsidies; if two out of the three orders agree to the same sum, this majority determines the resolution; but when the three orders severally agree to a different sum, these three sums are added together, and a third of the whole is taken for the general vote*.

The marshal of the province presides over the states; and in his absence, the nobleman who ranks as senior according to the date of his oath, discharges the functions of president.

When the general assembly of the states is not in session the direction of daily affairs is vested in nine deputies, equally chosen from the three orders.

Each community collects, in its own district, the taxes granted for subsidies.

§ 5. *Of the States of Guelderland.*

These states are composed of nobles, and of deputies for the town of Ruremond. The nobles must prove their nobility by eight descents, four on the paternal side, and as many on the maternal; they must be in possession also of an estate, acknowledged to confer the rank of noble by the deputies for the town of Ruremond.

The town of Ruremond is represented in the states by two burgomasters, of whom one is the burgomaster for the time being, and the other the former burgomaster; they are authorized to vote in the assembly of states according to their own opinion.

The resolutions of the assembly are adopted by a majority of votes: the counsellor-pensioner is chosen by the states in the same manner. This officer has only a consultative voice.

§ 6. *Of the States of Flanders.*

The states of Flanders are composed of deputies for the clergy and towns. Nobles have no admission therein

* This was called *tertiating*.

The states are composed of seventeen deciding votes—one for the clergy, and sixteen for as many towns, castlewards, or trades; namely, the towns of Ghent, Bruges, Courtrai, Oudenargue, Ninove, and Termonde, the castlewards, districts or trades of the franc-de-Bruges, old town of Ghent, Courtrai, Oudenarde, Alost, Termonde, Bornhem, Wæs, Assenède, and Bouchante*.

The ordinary deputies, as well of the clergy, as of the towns, castlewards, and trades, are renewed every three years.

Each of the sixteen colleges ought to enjoy, in the assembly of its province, an influence proportioned to the interest which it has at stake†. To this effect,

1. There are eight principal votes in the province: the clergy of Ghent have one vote, those of Bruges one, the towns collectively, three votes, and the castlewards three.

2. There are eight deputies to the assembly; one for the clergy of Ghent, one for the clergy of Bruges, three for the towns collectively, and three for the castlewards. In case the number of votes are equal, the deputy who has the call has the casting vote.

3. One deputy, at least, for the castlewards and towns, beginning with the former, goes out every year; with the exception of those years in which the deputies for the clergy are changed, when no such alteration takes place.

§ 7. *Of the States of Hainault.*

These states are composed of three orders—the clergy, nobility, and third estate.

The first consists of seventeen members; namely, six abbots, four deputies, and seven rural deans. The six abbots are those of Saint Gheslain, Saint Denis, Cambron,

* Edict dated Brussels, July 5, 1754.

† Edict of the 13th October, 1775.

Bonne Esperance, Saint Feuillien, and Notre Dame du Val : the four chapters are those of Soignies, Leuze, Binch, and Chimay, of which each sends a deputy. The seven rural deans sit in the assembly as the representatives of the inferior clergy of their district.

To have a seat in the chamber of nobles, it is necessary to be sprung from a father, grand-father, great-grand-father, and great-great-grand-father, all nobles in direct masculine legitimate line, and held for such during the last hundred years at least : and it is necessary, besides, that the title to this nobility should rest on deeds, actions, or employments in the service of the sovereign, and that in course of four generations alliances have been formed at least twice with noble women, whose own brothers were sufficiently qualified by birth to be received into the chamber of nobles. Those whose nobility is only derived from letters patent obtained by purchase, must prove a nobility of six generations instead of four. Nobles must prove, moreover, that they are proprietors of a fief containing twenty-five bonniers in Hainhault, subject to the government of His Majesty, with the right of high justice, or that they are lords of a parish village.

The third estate is composed of the magistrate, assessors, and councils of the town of Mons, in number forty-two persons, and of two deputies for each of the thirteen towns of the province ; amounting in all to sixty-eight persons.

The deputation of the states of Hainhault is composed of two deputies for the clergy, two for the nobility, and six for the third estate.

One of the deputies for the clergy must necessarily be chosen among the abbots, the other from the four deputies for chapters. These deputies are chosen by the entire chamber of the clergy, by a plurality of votes, and for three years : they cannot be re-elected until after an interval of another three years.

The same regulations hold with regard to the deputies of the nobility.

The deputation of the third estate is composed of the two first sheriffs, of the magistrate of Mons, of two deputies chosen at each renewal of the magistrate, in the body forming the town council, by the magistrate and members of the said council, and by a majority of votes: the sixth deputy is registrar of the chief place, and is joined to the deputation as representative of the towns of the province. The states have a receiver general chosen by the three orders, and by a majority of votes, for six years: he cannot be again elected until after an interval of another six years.

§ 8. *Of the States of Namur.*

The states of Namur are composed of clergy, nobility and the third estate.

The clergy consist in the bishop of Namur, the abbots of Walfort, Grand-Près, Moulins, Jardinot, Boneffe, Floreffe, and Geronsart, and in the provosts of the chapters of Valcourt and Sclayens.

The nobles must show their title to nobility by six descents on the paternal side, including the person first ennobled: they must prove that they possess a lordship with the right of high justice, and an estate containing at least as much land as four ploughs can cultivate in a year; and that they are not originally of a province in which natives of Namur are excluded from the privileges of nobility. Nobles in the service of a foreign prince, or such as are not born subjects of His Majesty, cannot be admitted unless they obtain a dispensation from the government. The captain and bailiff of the château Samson, the provost of Poilvache, the castellain and bailiff of Montaine, the mayor of Feix, the bailiffs of Vieuville, Fleurus, Wasseige, and Bouvigne, are equally members of the states, and have a vote among the nobles; as well as a special

deputy from each of the towns of Fleurus, Valcourt, and Bouvigne.

The third estate is composed of the magistrates of the town of Namur, consisting of a mayor, seven sheriffs (of whom two are nobles admissible to the states, two graduates in law, and three notable burgesses), a burgomaster, who bears also the title of first elect, a secretary and mayor-lieutenant; to whom must also be added a second elect, a secretary elect, four wardens of the city, and the mayor of the bean trade.

Each order of the states has two deputies who, at the instance of the counsellor pensionary, and conjointly with the governor of the province or his lieutenant, carry into execution the resolutions passed by the general assemblies, and are charged with the conduct of affairs relating to the administration.

The deputies of the clergy and nobility are chosen from among the members of their respective orders by a plurality of votes: their functions continue six years: two abbots of the order of Citeaux cannot be chosen together to discharge the functions of deputies.

The third estate has no part in the assemblies, except when subjects of administration common to the three orders are discussed: it has no fixed deputies.

When an assembly of deputies of the three orders is convoked, the mayor of the city chooses and commissions two sheriffs to appear in the assembly: the sheriffs hear the proposition brought forward, and report it to the magistrates, who, having deliberated, commission the same deputies to return to the assembly of the three orders and make known their vote.

The counsellor pensionary is also secretary to the three orders: it is his business to perform every thing connected with the order and service of the states.

§ 9. *Of the States of the Tournesis.*

The lordship of Tournay and the Tournesis is governed by two bodies ; the magistrates who constitute the Consaux and states of the town, for every thing which relates to the town, its ancient and modern precincts ; and for the Tournesis, the ecclesiastics and bailiffs of the lords high justiciaries who compose the states thereof.

The states of Tournay have the same attributes and privileges as other states. The magistrates have not alone the right of giving their consent to the levying of aids and subsidies, but must ask also that of the banners or companies of tradesmen.

A counsellor pensionary, a secretary, and treasurer, are attached to the states. The counsellor pensionary has a consultative voice.

Article I.—*Of the Provinces which have no States.*§ 10. *Province of Malines.*

The demand for aids and subsidies on the province of Malines, is made in the assembly of the magistrates of Malines, to whom the person authorized to make the requisition in the name of the sovereign, communicates the instructions which he has received from him. The magistrates transmit this instrument to those of their jurisdiction, and charge them to communicate their determination.

In every district, the senior of the heads of communes convokes a meeting of the principal *adhérités* and wardens. One of the pensionaries of the town reads the instructions of the sovereign. The resolution is immediately taken according to the majority of votes. The consent of the town of Malines is expressed by the great council, composed of the magistracy and the deans of seventeen chief trades.

Art. II.—*Free Lands.*

The free lands bear a portion of impost, but do not contribute with any province.

The taxes are fixed by the government, which augments them in a certain proportion whenever the sovereign requires extraordinary subsidies from the states of the provinces.

The free lands pay their taxes to a special receiver appointed by His Majesty.

Title IV.—*Administration of the Laws.*§ 1. *Promulgation of Laws for all the Provinces.*

The right of making laws belongs to the sovereign alone, or to the person who represents him. Affairs relating to legislation are transacted in the privy council.

The higher tribunals of justice may be consulted, as well as the states of the provinces.

When the privy council has resolved on the promulgation of a law, the result of such resolution is laid before the governor-general, who decides thereon either of himself, or after he has taken the orders of His Majesty.

All ordinances which are properly laws, that is, decrees relating to justice or police, importing the reformation of abuses, distinctions of punishment, with such other regulations as affect the general circumstances of the people, must be published in the name of the sovereign, and under his great seal.

§ 2. *Form observed in the promulgation of particular Laws for Brabant and Limburg.*

Laws and ordinances concerning Brabant must be sealed with the seal of the province, and signed by a secretary who is a native of Brabant*.

* Art. 4, 5, of the joyous entry.

All the affairs of Brabant which relate to justice or statutes, placita, edicts, ordinances, &c., are transacted by advice of the council of Brabant.

When the government wishes to pass a law which concerns the province, it sends an order to the council to cause it to be promulgated: the council deliberates on the law, and thereupon either promulgates it, or exposes by a representation to the government, the difficulties and impediments which lie in the way thereof.

§ 3. *On the administration of Justice in general.*

The edicts of the sovereign, and municipal customs, constitute the Belgic law: where edicts and customs fail, the Roman law is followed.

The magisterial bodies in most of the towns and villages of the Low Countries, are composed of several persons, who are the judges of the district.

Each province and town follows its peculiar forms in the administration of justice, as well civil as criminal. When the judge neglects any of the said forms, the accused has a right to lay his complaint before the superior judge, and to pray the annulling and evocation of the procedure; which differs from an appeal.

§ 4. *Of the great Council.*

The great council is concerned only with the administration of justice: it is the first tribunal of the Low Countries. Its attributes and jurisdiction are determined by particular laws.

It tries appeals from the sentences of the provincial councils of Flanders, Luxemburg, and Namur, as well as from those rendered by the magistrates of Malines; without any right, however, in such cases of appeal, to any jurisdiction in the said provinces of Flanders, Luxemburg, and Namur.

University of Louvain.

The university enjoys certain privileges granted by the sovereigns of the Low Countries: the conservator of privileges* is charged with upholding and defending them: he is judge in several cases relative to the maintenance and due observance of privileges.

The university, as a body, has the right of presentation to a great number of benefices, with and without the care of souls, not only throughout the Low Countries, but also in the territory of Liege: notwithstanding, in the last mentioned country, the right of nomination only extends to benefices which are not in the gift of the Holy See.

A royal commissioner is charged with the execution and maintenance of the edicts, ordinances, and decrees, successively passed for the direction, discipline, and police, of the university.

All His Majesty's subjects, of whatever state or condition they may be, are prohibited from following any course of philosophy, public or private, elsewhere than in the university of Louvain, or in other universities subject to his government, without the special and written permission of the government.

No person can be admitted to the dignities, offices or benefices, ecclesiastical or civil, which require the degree of licentiate, no more than to the profession of advocate, if he has not taken this degree in the university of Louvain.

No person, unless by express permission from the sovereign, can practise physic in the Low Countries, if he has not taken his degrees at Louvain, and if he has not been examined and approved by the doctors of that university, or by the physicians attached to the person of the sovereign.

* One of the principal officers of the university.

ACT OF UNION
OF THE BELGIC PROVINCES*.

THE states of Flanders, long united by strict ties of friendship and interest with the states of Brabant, animated, moreover, with a uniform wish for the preservation of their rights, usages, privileges, and the worship of their fathers, alike injured in these sacred rights for a number of years past, by an arbitrary and despotic government, and being left no other resource than that of shaking off the said yoke, and recovering their liberty and independence by arms, are of opinion that the sole means of accomplishing this end, and of establishing their freedom on a firm and durable basis, is to unite their fate to that of the province of Brabant, and to conclude together a treaty of union offensive and defensive in every respect, on the express condition of never entering into any conference or treaty whatever with their late sovereign, except with the common consent; and willing to give the states of Brabant all possible proofs of a sincere friendship, and to evince unequivocally their earnest desire to establish an indissoluble union with them, the said states of Flanders, in pursuance of the proposition which has been made to them by M. the Canon Van-Eupen, by authority of the states of Brabant, do agree that this union be changed into a common sovereignty of the two states, in such manner that the power and exercise of this sovereignty be vested in a congress composed of deputies appointed by both parties, according to articles of organization hereafter to be agreed

* For an account of the circumstances which led to this union,
see page 397.

upon, and in accordance with the principles of strict justice, and the promotion of the general good ; save that the intent and meaning of the contracting parties is understood to be, that the power of this sovereign assembly be limited to objects of a common defence, to the power of making peace and war, to the levying and support of a common national militia, to the establishing and keeping up the necessary fortifications for the defence of the country, to the contracting alliances with foreign powers ; in fine, to the doing every thing which concerns the common interest of the two states, and of such as may hereafter think proper to join them. The states of Flanders dare flatter themselves that the states of Brabant will find in this declaration a pledge of the loyal sentiments which actuate them, and of their zeal for the common cause ; entertaining no doubt but that the states of Brabant will on their part reply in the same spirit of frankness and sincerity.

Decreed in our meeting of the 30th November, 1789.

ADHESION

OF THE STATES OF BRABANT TO THE ACT OF UNION.

The state of Brabant, having deliberated upon the foregoing act, have resolved to approve and ratify, so far as necessity shall require, all the stipulations contained in the said act, with the solemn promise of conforming thereto, and of delivering a similar act to the states of Flanders.

ORDINANCE

OF THE THREE ESTATES REPRESENTING THE PEOPLE AND
DUCHY OF BRABANT.

To all those to whom these presents shall come: GREETING: Be it known, that by unanimous consent, expressed on the 26th and 27th of the month of December last, as well as on the 29th and 30th of the same month, we have decreed the articles and formulæ of oaths relating to the same, which were taken into consideration at the instance of the sovereign council of this duchy, and are contained in the act hereto annexed under the counterseal of the said duchy; and willing to give to the said articles and formulæ of oaths relating to them, all the strength and efficiency which a compact so essential to the maintenance of that strict union on which the welfare and permanent tranquillity of the Brabant people in general depend, demands we have thought fit, with the advice and decision of the said council, to decree and ordain, as we do decree and ordain by these presents, that the articles above mentioned, together with the formulæ of oaths relating to the same, be inviolably kept and punctually executed, all contravention to the said articles and formulæ, whether directly or indirectly, in any manner whatever, being expressly forbidden.

We therefore command all judges, officers, and inhabitants of this country, and the territories thereon dependent, whom the same shall concern, strictly to conduct themselves according to the tenor of these presents. In witness whereof we have hereunto affixed the seal of the said duchy.

Given at Brussels, this 7th day of the month of January, in the year of grace 1790.

The three estates representing the people of the duchy of Brabant, have decreed on the 26th and 27th, as well as on the 29th and 30th of December, 1789, the following articles, the same having been taken into consideration at the instance of the sovereign council of the said duchy.

1. That the sovereignty exercised by the late duke shall be for the future exercised by the three estates of Brabant.

2. That in all other respects, the constitution of this province shall remain unchanged.

3. And in particular, that the council of Brabant shall preserve all its supremacies, rights and prerogatives ;

4. That for the future the magistrates, as well as the other members of the third estate for the three chief towns, shall be appointed without the influence of the two first orders, agreeable to arrangements which shall be forthwith agreed upon by the three estates ;

5. That all the members of the three estates, the counsellors, and all such as hold any offices in Brabant, shall take an oath to observe the constitution on the footing above laid down ;

6. That the three estates of Brabant, before taking an oath to the people, shall, in the presence of, and before the archbishop of Malines, or in his default, before the first in ecclesiastical dignity, not being a member of the said states, take the oaths which the former dukes were at all times accustomed to take to the churches of Brabant, and shall make profession and belief of the Roman catholic apostolic religion according to the formula of his holiness Pope Pius IV. ; and the said states of Brabant, together with the states of the other provinces, shall require and take special care that all such persons as are admitted to the states, as well as all those who now hold, or may hereafter hold, any office in Brabant, do and shall make confession and belief according to the said formula.

In pursuance of the above, on the 31st December, 1789, at 11 o'clock in the forenoon, the said three estates of Brabant assembled in the great hall of the town-house (a crucifix and the Holy Gospels being placed in the middle of the said hall) in the following order:

Of the first estate, his eminence the cardinal archbishop of Malines; his grace the bishop of Antwerp; and the very reverend the prelates of Vlierbeck, Villiers, Saint Bernard, Grimbergue, Parck, Heylissem, and Tongerlo.

Of the second estate, the prince de Grimbergue; the marquis de Wemmel; the marquis de Traizegnies, as marquis d'Ittre; the count de Lanoy, as count de Liberschies; the count d'Argenteau, as count de Dongelberge, &c.

And of the third estate, of the three chief towns, the undermentioned deputies. (Here follow the names.)

The ceremony was opened by a speech; which being finished, the aforesaid members of the states, in the presence of a great concourse of people, made altogether the profession of faith according to the formula required.

The three estates then took the following oath to the churches of Brabant, before his eminence the cardinal archbishop of Malines.

"We the prelates, nobles, and deputies for the chief towns, forming the three estates, and in this character representing the people of Brabant, swear and promise before our Lord, on the Holy Evangelists, to be always faithful to the churches of the duchy of Brabant, and to observe, and cause to be observed, the rights, privileges, statutes, usages, proprieties, and immunities of the said churches, as the former dukes of Brabant have heretofore done. So help us God and all the saints."

And before the very reverend lord, the dean and deputy of the chapter of Saint Gudule, the following oath to the churches:

“We the prelates, nobles, and deputies of the chief towns, forming the three estates, and in this character representing the people of Brabant, swear and promise before our Lord, on the Holy Evangelists, to be always faithful to the church of Saint Gudule, and to the other churches of the district and dependency of this town of Brussels; and to observe and cause to be observed....” &c.

This done, the first estate, before the other two estates, took the oath of faith and homage to the three estates representing the people of Brabant, in the terms following:

“We the prelates, representing the first estate of the territory and duchy of Brabant; promise, assure and swear before the two other estates of the same province, faith and homage to the three estates representing the people of Brabant, and, furthermore, that we will faithfully observe, maintain and cause to be faithfully observed and maintained, the constitution in all its points, on the footing laid down in the joyous entry, and in the foregoing resolutions. So may God,” &c.

Next, the second estate took the same oath before the two other estates, and the third in like manner to the two first.

Every thing which precedes was done in the presence of M. M. the sovereign council of the duchy of Brabant, who thereupon, as a body, and before the three estates representing the people of the said duchy, took the following oath:

“We promise, assure, and swear faith and homage to the three estates of Brabant representing the people of the same province; and furthermore, that we will faithfully observe and maintain, and cause to be faithfully observed and maintained, the constitution in all its points, on the footing laid down in the joyous entry, and in the foregoing resolutions. So may God,” &c.

(There were present at this solemnity the agent plenipotentiary of the people of Brabant, and the deputies of the states of Flanders.)

TREATY OF UNION,

AND ESTABLISHMENT OF THE SOVEREIGN CONGRESS OF THE
UNITED BELGIC STATES.

After the death of the empress dowager and queen, Maria Theresa of Austria, the people who now form the United States of the Netherlands acknowledged for their sovereign Joseph II., the eldest son of the empress, and they submitted to his government, but under such express reserves and stipulations as the constitution of these provinces had of old laid down. These stipulations and reserves, contained in the inaugural compact, were more ancient than the family which governed the country, and born, if we may use the expression, with the nation itself: they were accordingly solemnly agreed upon and sworn to, and nothing was wanting to give effect to the treaty which the people, according to custom, made with the prince before they acknowledged him as their sovereign. The entire preservation of the ancient catholic, apostolic, and Roman religion; the maintenance of the constitution, of the liberties, franchises, customs, and usages, such as they were contained in the charters, and confirmed by possession from time immemorial, and particularly in an instrument called in Brabant the *joyous entry*—all this was usual, and promised on the faith of an oath. The inhabitants had all these points so much the more at heart, as they had now been long accustomed to regard them as essentially forming their constitution, and this constitution as the bulwark of their liberties, and the safeguard of their happiness. However, in spite of the positive oath of the sovereign, relative to the observance of the inaugural compact; in spite of the representations, so often repeated, of all orders of the state, regarding the numberless violations of this compact, the

sovereign for several years pursued a line of conduct which tended to nothing less than to change every thing, to innovate incessantly, and to deprive the inhabitants of a constitution which was dear to them, and of which, without injustice, they could not be despoiled. We have seen successively appear a multitude of edicts which assailed religion in the various points of its morality and celebration, in what regarded its tenets and its ministers. The tribunals of the nation were overthrown; the laws arbitrarily changed or infringed upon; the property, the personal liberty of the Belgians, of which they have always shown themselves so jealous, were no longer safe from unconstitutional enterprises. The laws disappeared before the sword of military oppression—the ancient usages were every where altered or abolished; the old order of things was superseded by a new, or replaced by the arbitrary and precarious will of the prince, or of those persons who governed in his name, and acted under his authority. Such was the extent of our wrongs: they were become incurable. At length the government, not content with turning a deaf ear to all remonstrances, by a new and decisive stroke of authority, closed the door to remonstrance itself, by annulling the joyous entry, the old privileges and fundamental laws of the provinces, by abolishing, with the constitution, the colleges of deputies, which had hitherto been the usual organ of the representations and representatives of the people. In fine, the compact, which ceased to bind from the moment that it ceased to be reciprocal, was formally broken on the part of the sovereign: and what after this remained to the people, except the natural and imprescriptible right which the compact itself allowed them, of opposing violence by force, and of resuming an authority which had been intrusted to another only for the common happiness, and with so many precautions, and under such express reserves and stipulations! This, in fact, is what has been done; and it is in

conformity with these principles that the different provinces have declared themselves free and independent. Heaven has manifestly favoured an undertaking formed under its own auspices. Europe and humanity have applauded the success with which it has been attended. But it is not enough to have gained advantages—to render them of permanent utility we must think of consolidating them. For these causes, the Belgic states, having rivetted anew the ancient ties of union and lasting friendship, have agreed upon the points and articles following:

Art. 1. All the said provinces unite, and join themselves together, under the denomination of the *United Belgic States*.

2. These provinces put in common, unite, and concentrate the sovereign power, which is nevertheless limited and confined to the following objects; to that of a common defence; to the power of making peace and war, and consequently, to that of raising and keeping on foot a national army, as well as to the ordering, constructing, and keeping in repair, the necessary fortifications; to the contracting alliances, as well offensive as defensive, with foreign powers; to the appointing, sending, and receiving residents, ambassadors, and other diplomatic agents—the whole in virtue of the authority thus concentrated, and without any recourse to the respective provinces. The influence which each province is to enjoy by its deputies, in discussions relative to the articles contained in the present treaty, is agreed upon.

3. To exercise this sovereign power, they create and establish a congress of deputies from each province, under the denomination of the *Sovereign Congress of the United Belgic States*.

4. The provinces above mentioned, professing, and wishing for ever to profess the catholic, apostolic, and Roman religion, and wishing to preserve inviolate the unity of the

church, the sovereign congress shall observe and keep up the relations heretofore maintained with the Holy See, as well in the appointment and presentation of the subjects of the said provinces to archbishopricks and bishopricks, according to a mode which the provinces shall hereafter agree upon among themselves, as on every other occasion; conformably to the principles of the catholic, apostolic, and Roman religion, to the concordates and liberties of the Belgic church.

5. The congress shall alone have power to issue money under the coinage of the *United Belgic States*, to fix the title and value of the same.

6. The provinces of the Union shall contribute to the expense necessary to the exercise of the sovereign powers assigned to the congress, according to the proportion observed under the late sovereign.

7. Each province retains and reserves to itself all the other rights of sovereignty, its legislation, liberty, and independence—in fine, all the powers, jurisdictions, and rights, whatever, which are not expressly made common, and delegated to the sovereign congress.

8. It is moreover agreed and irrevocably determined upon; that with regard to any difficulties which might arise, whether on account of the general contribution, or on any subject of discussion whatever, between a province and the congress, or between one province and another, the congress shall endeavour to adjust such difference in an amicable manner: and if an amicable adjustment cannot be effected, each province, at the request of either of the parties, shall appoint one person, before whom the cause shall be summarily brought and decided; the sovereign congress being invested with the right of carrying the decision into execution, and if the sentence be given against the said congress, being obliged to submit to it.

9. The United States strictly bind themselves to afford

aid and assistance to each other : from the moment a province is attacked by a foreign enemy, they shall all make common cause, and altogether defend, to the utmost of their strength, the province assailed.

10. No province shall be at liberty to contract any alliance or treaty whatever with a foreign power, without the consent of the congress; and the particular provinces shall have no power to unite, ally, or join themselves together, in any manner whatever, without the consent of the congress. The province of Flanders, nevertheless, shall be at liberty to unite itself to West Flanders, on condition that each shall have its particular deputies in the congress, that these deputies shall have a free and independent voice, and that the deputies of the one shall never be at the same time deputies of the other.

11. This Union shall be firm, perpetual, and irrevocable; no one province, nor several, not even the majority, being at liberty to break it, or separate themselves therefrom, under any pretext, or from any motive whatever.

12. It is also invariably agreed upon that the civil and military powers, or any portion of the said powers, shall never be conferred on the same person, and that no one having a seat and vote in the congress shall be eligible to an employment in the military service; and that on the other hand, no one holding a military employment shall be eligible as a deputy to the congress, or be competent to have a seat and vote therein. In the same manner, no person who has an employment or pension under a foreign government, under whatever denomination the same may be, can be admitted in the congress. All those are excluded also, who, after the ratification of this treaty of Union, shall accept any military order, or decoration whatever.

To effect this, all the states composing the Union in general, and each member in particular, as well as all those

who shall take a seat in the congress, all the counsellors and members of the councils of the provinces, all the magistrates, and especially all the judges and civil officers, shall promise and swear faithful and strict observance of this Union, and of all, and of each of its points. Thus is it concluded, done, and decreed, at Brussels, in the general assembly of the *United Belgic States*, by the undersigned deputies of the respective states, under the ratification of their constituents.

(The original, passed on the 11th January, 1790, at two o'clock in the morning, is signed by the deputies of Brabant, Guelderland, Flanders, West Flanders, Hainault, Namur, of the Tournesis and Malines.)

DECREE

OF THE NATIONAL CONVENTION

ON THE UNION OF BELGIUM AND THE TERRITORY OF LEIGE
WITH THE FRENCH REPUBLIC, 9 VENDEMAIRE, YEAR 4.

(1 OCTOBER, 1795.)

THE national convention, having heard the report of the committee of public safety, decrees as follows:

Art. 1. The decrees of the National Convention of the 2nd and 4th of March and 8th of May, 1793, which united the countries of Liege, Stavelot, Logne, and Malmedi, to the French territory, shall be carried into execution according to their form and tenour.

2. The decrees of the National Convention of the 1, 2, 6, 8, 9, 11, 19, and 23 of March, 1793, which united to the French territory Hainault, the Tournaisis, the country of Namur, and the major part of the communes of Flanders and Brabant, shall in like mannner be carried into execution.

3. The National Convention accepts the wishes expressed in 1793 by the communes of Ypres, Grammont, and other communes of Flanders, Brabant, and that part of Guelderland heretofore Austrian, which were not included in the said decrees, for their union with the French territory.

4. All the other countries on this side the Rhine, which, before the present war, were under the dominion of Austria, with such as were reserved to the French republic by the treaty concluded at the Hague, the 27 floreal last, between the plenipotentiaries of France and those of the United-Provinces, (which treaty is in no wise affected by any regulation contained in the present decree) are in like manner united to the French territory.

6. The inhabitants of the countries of Liege, Stavelot, Logne, and Malmedi, with those of the communes of Belgium, which are comprised in art. 2 and 3 of the present decree, shall enjoy, from the present moment, all the rights of French citizens, if in other respects they possess the qualifications required by the constitution.

6. With regard to the communes comprised in art. 4 above, the inhabitants, until it shall be otherwise provided, shall enjoy all the rights guaranteed by the constitution to foreigners who reside in France, or possess property there.

7. The countries mentioned in the first four articles of the present decree, shall be divided into nine departments: namely, that of the Dyle, principal town Brussels; the Scheldt, Ghent; La Lys, Bruges; Jemmapes, Mons; des Forêts, Luxemburg; Sambre et Meuse, Namur; L'Ourthe, Liege; La Meuse Inférieure, Maëstricht; des Deux-Nèthes, Antwerp.

8. The representatives of the people sent into Belgium are charged with fixing the respective boundaries of the said departments, and with dividing them into cantons like the other parts of the French territory.

9. They shall appoint, provisionally, the functionaries for forming the administrations of the departments, those of the cantons, and the tribunals of the countries of Limburg, Luxemburg, Maëstricht, Venloo, and their dependencies, with Dutch Flanders.

10. The legislative body shall determine the number of representatives of the people which each department, formed in pursuance of art. 7 above, shall have a right to return at the renewal intended to take place in the 5th year of the republic.

11. The representatives of the people sent into Belgium shall look to the prompt return of the extraordinary contributions imposed on those countries, and forming their share of the expenses attending the war of liberty.

12. The offices of the customs actually in being, whether between France and the countries mentioned in the first four articles of the present decree, or between different parts of the same countries, shall be suppressed. Those which are established between the said countries, the United Provinces, and the countries not re-united between the Meuse and Rhine, shall be maintained.

CONSTITUTIVE LAWS OF THE UNITED PROVINCES.

ACT OF UNION

OF THE UNITED PROVINCES, CONCLUDED AT UTRECHT
THE 23RD JANUARY, 1579.

INASMUCH as it is acknowledged that since the pacification of Ghent, in which the provinces of the Low Countries bound themselves to assist each other in expelling the Spaniards and other foreigners from their country, these same Spaniards have endeavoured by every means to bring back the provinces under their tyrannical yoke, and to destroy the union which the pacification of Ghent effected between them. *For these causes*, the people of the duchy of Guelderland and county of Zutphen, those of the counties and territories of Holland, Zealand, Utrecht, Friesland, and Ommelands, between the Ems and the Lauwers, have thought fit to form together a more particular and intimate alliance; not with any intention of withdrawing from the general union formed by the said pacification, but to strengthen it, to be in a better state of defence against the common enemy, and to prevent all further divisions.

To effect these ends, the deputies of the aforesaid countries, in virtue of the full powers which they have received from their constituents, and not designing to separate themselves from the holy Roman empire, have decreed and resolved upon the following articles.

Art. 1. The aforesaid provinces ally, unite, and league themselves in perpetuity, so to confederate together as if they formed but a single province, no one being permitted

to separate from the other by any convention or treaty whatever; without any infringement, nevertheless, on the privileges, franchises, immunities, statutes, laudable usages, and other rights which any one of the provinces, towns, members, or inhabitants, may possess. Not only will they abstain from all injury or encroachment on the said privileges, &c., but they mutually pledge themselves, at the peril of their lives and fortunes, to assist each other in defending and maintaining them by all suitable means against whoever shall attack them; and as to the differences which might arise between the members or towns of any province of this Union on account of the said privileges, rights, &c., they shall be determined by the ordinary judge, by arbitration, or in a friendly manner, without the other provinces, towns, or members, so long as the parties submit themselves to the ordinary jurisdictions, having any right, except to promote an accommodation as mediators, to interfere or interpose in the same.

2. The aforesaid countries, in virtue of this Union, firmly and mutually bind themselves, at the peril of their lives and fortunes, to defend each other against all violence which might be intended them in the name, or on the part of the king: whether such violence be meditated against them, because, on occasion of the pacification of Ghent, they took up arms against Don John, and received the archduke Matthias as governor; or on account of the consequences which have resulted, or which might result therefrom, even under pretence of introducing and establishing the catholic religion by force of arms; or on account of the changes which have taken place in the said provinces, since the year 1558; or on account of this present Union and confederacy; or finally, in a case where a province, town, or member in particular, or even all in general, should be the object of attack.

3. The aforesaid provinces agree to assist each other

against all lords, princes, states or towns, whether foreigners or of the country, who might wish to injure or make war upon them: it being understood that the necessary succours and subsidies shall be fixed by the generality of the Union, with a cognizance of the cause, and according to circumstances.

4. And the better to secure the said provinces, towns, and members, it is resolved that the frontier towns, and such others as may be thought to require it, shall be fortified according to the advice and order of the aforesaid United Provinces, at the expense of the towns and provinces in which they are situated; but that the generality shall contribute to the expense as far as one half: it being understood that if the aforesaid provinces think proper to construct any new forts in any one of the said provinces, or to repair or demolish those which are now in existence, the expense shall be borne by the generality.

5. In order to supply the necessary expenses for the defence of the provinces, it is resolved, that every three months, or at periods of time more suitable, there shall be publicly farmed out to the highest bidder, or gathered by collectors, in the provinces of the Union, certain duties laid on wine, beer, corn, gold, silver and woollen cloth, horned cattle, sown lands, butchers' meat, horses, oxen, and on all other articles which hereafter, by unanimous consent, it might be thought proper to tax. Finally, the revenues arising from the king's domains may be employed for this purpose, but this after deducting the charges to which they may be subject.

6. The said duties shall be augmented or diminished according to the wants and necessities of the state, in pursuance of the general will; they shall be levied only for the common defence, and for those expenses which belong to the generality, without being liable to be diverted to any other purpose.

7. The frontier towns and even other places, when necessity calls for it, shall be at all times obliged to receive such garrisons as the aforesaid United Provinces, with the advice of the stadtholder of the province in which the garrison is to be placed, shall think proper to station in them: but such garrisons shall be paid by the United Provinces. And the officers and soldiers, besides the oath taken to the general Union, shall be also obliged to take an oath to the town, place, or province, in which they are quartered, and in such terms as the tenor of their patents shall require. A discipline so exact shall be preserved that the inhabitants, as well ecclesiastical as secular, shall be in no wise molested. The soldiers of the garrison, as well as the burgesses and inhabitants, shall be subject to impost and excise; but the burgesses and others, as is practised in the province of Holland, shall be paid for their quarters by the generality.

8. And to the end that assistance may be always ready in case of need, all the male inhabitants of every province, from the age of eighteen to sixty, shall be obliged, within the space of one month at the latest, from the present time, to enrol their names, in order that at the first assembly of the confederate states, such measures may be adopted, as may be judged expedient for the security and defence of the country.

9. And it shall not be lawful to conclude either peace or truce, to undertake any war, levy any impost or tax in favour of the generality, except with the advice and unanimous consent of the provinces of the Union. But in all other affairs relating to the management of this confederacy, the majority of the votes of the said provinces shall determine the conduct to be pursued. These votes shall be collected, as has been hitherto practised in the assembly of the states-general, always provisionally, (that is, subject to the ratification of the members of the confederacy them-

selves,) until by the unanimous consent of the confederates, it shall be otherwise decreed. In case of the provinces of the Union not being able to agree on affairs relating to peace, truce, war, or contributions, the decision shall be provisionally referred to the stadtholders of the aforesaid provinces, who shall adjust the difference between the parties, or decide as they think expedient. And should the stadtholders be unable to agree among themselves on the points referred to them, they shall then, and in that case, choose such impartial assessors and colleagues as to them shall seem good, and to their decision the parties shall be finally bound to submit.

10. No province, town, or other member of the Union shall be at liberty to contract any alliance with the neighbouring lords or states, without the consent of the other confederates.

11. In case of any neighbouring prince, lord, town or territory wishing to accede to the present Union, they shall be free to be admitted therein with the advice and unanimous consent of the provinces of the Union.

12. With regard to money and the circulating specie, the provinces shall be obliged to conform to the ordinances which hereafter, and on the first opportunity, shall be made public; and on this point no one shall be at liberty to make any innovation without the consent of the others.

13. In matters of religion, Holland and Zealand shall act as they think proper; but the other members of the Union shall be at liberty to regulate their conduct by the religious peace which the archduke and his council have agreed upon, in conformity with the opinion of the states-general*.

* This article at first gave rise to some difficulties. It was thought to be framed with the view of excluding from the confederacy all those who admitted the religious peace, or at least the two religions, the catholic and protestant. In consequence, some days after, it was added by way of explanation, that no idea was entertained of excluding from the confederation, the provinces and towns which admitted only the Roman catholic

On this article, they shall be free to publish such ordinances as they think necessary for the repose and well-being of each province, town, and member, and for the defence of the rights of every one, whether ecclesiastical or civil, without their being liable to be disturbed or molested on account of the same, by any other province: provided, nevertheless, that each province enjoy liberty of conscience, and that, in conformity to the principles laid down in the pacification of Ghent, no person be called to an account or disturbed for the sake of his religion.

14. In deference to the pacification of Ghent, all the religious persons and ecclesiastics shall enjoy their property and effects in the United Provinces; but such religious persons as in time of war shall have quitted their cloisters situated in a country subject to the Spaniards, to withdraw into Holland or Zealand, shall be decently maintained by the convents or communities whence they have withdrawn, which rule shall equally hold good with regard to such as withdraw from Holland and Zealand into the other provinces.

15. Those who, for the sake of religion or from other reasonable motives, shall have quitted, or shall wish to quit their convents and communities situated in the provinces of the Union, shall be maintained, during their lives, from the revenues of the said convents: but those who henceforward enter cloisters, and afterwards abandon them, shall have no right to claim any thing for their maintenance, or draw any thing from the said cloisters beyond what they carried with them. Religious persons, moreover, both now and for the future, shall enjoy all free-

religion, and in which the number of protestants was not sufficiently great to entitle them, conformably to the religious peace, to the exercise of their religion; that they would be readily received into the Union provided they would observe the articles, and conduct themselves as good patriots, inasmuch as it was not among the objects in view that one province or town should impose conditions on the others, on the subject of religion.

dom of religion and habit, provided that in every thing else they submit themselves to their superiors.

16. If any misunderstanding or difference should arise between the provinces, it shall be determined by the other provinces, or by their commissioners, and if the affair should interest all the provinces in general, it shall be referred to the decision of the stadtholders conformably to the rules laid down in art. 9. And the said stadtholders, after being called upon by either of the parties, shall be obliged, within one month, or sooner if required, to administer right and justice between them; and their sentence shall be carried into execution, notwithstanding every appeal, relief of appeal, revision, nullity, or other protest whatsoever.

17. The provinces, towns, and members of the Union shall carefully avoid affording any grounds for war to foreign states and provinces: the more effectually to prevent this, they shall render the same impartial justice to foreigners as to the inhabitants. If one of the provinces were deficient in this respect, the others would be obliged to lend their assistance, conformably to the rights, privileges, and laudable usages of each province.

18. No province, town, or member of the Union, shall be at liberty to levy any impost, transport duty, or other tax whatever, to the prejudice of the other members, without the general consent, or to charge any of the confederates more than its own inhabitants.

19. And to prevent all difficulties that might otherwise arise, the confederates, on being duly convened by persons authorized for this purpose, shall be obliged to appear at Utrecht on a fixed day, to deliberate on the affairs expressed, unless secrecy be required, in the letters of convocation. The decrees there enacted shall be carried unanimously, or by a majority of votes. Those who do not appear shall be obliged to conform to the resolutions taken,

except in very important affairs which may admit of delay, in which case the absent members shall be anew convoked, under the penalty, this time, of forfeiting their suffrages by absence. But those who by lawful impediment shall be prevented from appearing, shall be at liberty to send their opinions in writing, and in summing up the votes, regard shall be paid to such opinions.

20. Each confederate shall be obliged to communicate to the persons charged with making the convocation, the affairs in which the confederation might be interested, to the end that the other provinces might be called together for the consideration of such affairs.

21. If any doubtful expression or obscurity occur in the articles of the present Union, the interpretation thereof shall be referred to the common judgment of the confederates; and if they cannot agree, recourse shall be had to the stadtholders in the manner above laid down.

22. Should it be thought necessary to make any additions to, or alterations in any articles of this Union, the opinion and common consent of the confederates shall be necessary to give effect to the same.

23. The provinces mutually promise and engage themselves to observe, and to cause to be observed, all the aforesaid articles, declaring null and void every thing which might be contrary to the same: and for this they bind their persons, their properties, and those of all the inhabitants of their respective provinces, submitting both one and the other to all lords and tribunals, and renouncing every claim, right, and privilege, which might be able to withdraw them from the judgment of the same.

24. And for the greater security, the stadtholders, as well present as future, the magistrates and principal officers of each province, town and member, shall take an oath to observe, and to cause to be observed, all the articles of this Union.

25. The same oath shall be taken by all companies of citizens, communities, and societies of tradesmen in the towns and boroughs of this Union.

26. Faithful copies of the present instrument shall be taken, which shall be sealed by the stadtholders, by the principal members, and by the principal towns of the provinces of the Union, after due requisition made to them for this purpose, and signed by their secretaries.

CONSTITUTION

OF THE UNITED PROVINCES.

CHAPTER I.—*Government of the United Provinces in general.*

§ 1. *Of the Confederation.*

The United Provinces are Guelderland with the county of Zutphen, Holland and West Friesland, Zealand, Utrecht, Friesland, Over-Yssel, Groningen, and Ommelands.

These different provinces, though united and strictly bound to each other, are independent, absolute, and sovereign, each in its own territory.

The states of each province do not acknowledge any superior authority, not even the body composed of all the United Provinces.

§ 2. *Of the States-general.*

The assemblies of the states-general are composed of as many deputies plenipotentiary as there are united provinces.

The deputies are to take care that no attempt be made on the sovereignty of the province.

This assembly represents, even with regard to foreigners, the body of the seven confederated sovereignties.

The states-general exercise sovereignty over the territories and places conquered by the arms of the allies, over the countries of Outre-Meuse, Hulst, Ecluse and several other places in Flanders, which they possess as the king of Spain possessed them, without prejudice to the rights of the particular lords; as well as over the countries acquired by the companies of the East and West Indies.

The assembly of the states-general takes cognizance of affairs which concern the union and the common defence: resolutions are taken by a majority of the votes of the provinces; but their powers are limited in what regards the essence of the alliance, for in this case they cannot adopt a resolution except by the unanimous consent of all the allies. In particular, they cannot undertake a war at the common expense of the state, levy taxes, or contract an alliance to be binding, except by unanimous and express consent.

The number of deputies for each province is not determined: all the deputies of a province have only a single vote. Each province, beginning with Guelderland, presides in its turn for a week: the first deputy presides the whole week. The president, on ordinary occasions, brings forward the subject of discussion, although every deputy has the right of making motions: he afterwards collects the opinion of each province, takes the resolution, which he dictates to the secretary and signs. If the president refuses to adopt the resolution which is sanctioned by a majority of votes, on the ground of its being prejudicial to the interests of his province, he must resign his place to the president of the preceding week, and so on.

The assembly of the states-general is permanent, and fixed at the Hague.

The deputies are to be employed in the government of the state: those who hold military employments cannot form a part.

§ 3. *Of the Council of State.*

The council of state is composed of deputies from all the provinces ; but amongst its members, some are deputed by particular provinces, others are simply counsellors of state, and receive their commissions from the assembly of the states-general.

The number of deputies is in general regulated after the forms according to which each province contributes to the common expenses of the state.

Guelderland sends two deputies; Utrecht and Groningen one each; Holland three; Zealand two; Friesland two, and Over-Yssel one*.

The president does not preside in the council as in the states-general, according to the rank of his province: each counsellor discharges the functions in turn as counsellor of state, and not as representative of a particular province; he must always decide according to the majority of votes.

This council has the management of affairs relating to war, but is subordinate to the states-general: it takes cognizance also of the administration of the finances.

The treasurer-general has a seat in the council, but in affairs belonging to his office only, has a deliberative voice.

When the fixed revenues are not adequate to the expenses, the council requires that funds should be raised to meet the extraordinary expenses of war.

The counsellors hold their office for a time; the treasurer for life.

The provinces are obliged to decide on such bills as relate

* Taking the aliquot parts of a hundred pounds, the following is the proportion in which the provinces contributed to the expenses of the state: Guelderland 7, Holland 42, Zealand 13, Utrecht 8, Friesland 17, Over-Yssel 5, Groningen 8. At least such is the rate assigned by Ailzma, who wrote about the year 1668, and is quoted in a "Description of Holland," or "the present State of the United Provinces." Lond. 1743.

to the raising funds for meeting the ordinary expenses of war, before the 1st of May: after this period, their silence is reputed to imply consent. For raising supplies to meet extraordinary expenses, the unanimous and express consent of the provinces is necessary*.

§ 4. *Of the Chamber of Accounts.*

The chamber of accounts is composed of deputies from all the provinces, and of two secretaries, who discharge also the functions of auditors and examiners.

It arranges the accounts between the provinces, and examines those of the special receivers, those of the domain belonging to the state, and those of the receivers of the admiralty.

It inspects and regulates the accounts of expenses of the deputies of the states-general, and council of state, who perform journeys or execute commissions in the service of the republic, also those of the extraordinary expenses of ambassadors, deputies extraordinary, and other ministers employed in foreign courts.

It keeps an exact register of the ordinances promulgated by the council of state.

§ 5. *Of the Admiralty.*

The admiralty is composed of deputies from all the provinces, who have the management of every thing which concerns the marine and what depends thereon, in the name of the state.

The admiralty is charged with collecting the duties of export and import, by land and sea, with the consent of the provinces.

* It was the duty of the council of state to make estimates of these expenses and lay them before the states-general, with a request that they would obtain the consent of the provincial states for raising the money according to their respective quotas. The provincial states, again, were obliged to consult their respective members.

These duties must be employed in the equipment and maintenance of vessels of war employed at sea for the protection and support of commerce.

The admiralty delivers in its accounts to the chamber of accounts: the members who compose it take an oath of fidelity to the republic before the states-general.

CHAPTER II.—*Government of the several Provinces.*

The sovereign power in general resides in the body composed of the nobles and magistrates of towns.

Each province has its particular government, although they differ little from each other.

The free exercise of all religions is tolerated in the United Provinces.

§ 1. *Guelderland.*

This province is divided into three quarters: the county of Zutphen, the quarter of Nimeguen, and the quarter of Velierre: these three quarters form three deliberative votes in the states of the province, and are represented therein by deputies.

The states are invested with the sovereign authority.

Each quarter holds its particular assembly; these assemblies are composed of two members: the first is formed by the body of nobles, the second by that of the towns.

When a resolution is adopted in each quarter, it is carried to the general assembly, and the sovereign resolution is determined by a majority of two quarters against one.

The stadtholder of the United Provinces is the chief of the nobles of Guelderland; he is represented in the assembly by another nobleman, who presides over it.

The number of nobles having a right to sit in the states is unlimited.

Every noble, endowed with the requisite qualifications, and twenty-two years of age, is admissible to the common regency.

The number of towns is fixed, and cannot be increased: but the magisterial colleges are permitted to send to the assemblies of their quarter as many deputies as they think proper; the deputies of each town, however, forming together but a single vote.

The burgomaster for the time being presides over the assemblies of his quarter. All affairs which interest the quarter are discussed in these assemblies.

The general assemblies are held twice a year, and alternately in the three principal towns.

The particular assemblies bear the title of *diets*: the general assemblies, that of the *states of the principality of Guelderland and county of Zutphen*.

Guelderland sends nineteen deputies to the assemblies of the states-general of the United Provinces.

§ 2. *Holland.*

Holland and West Friesland have one and the same government, called *the states of Holland and West Friesland*.

The states of Holland are composed of two parts, which are reputed to represent the entire body of the people; the nobles or equestrian order, and the representatives of the towns of the province.

The number of nobles is not fixed, nor is it at all times the same: they elect by a majority of votes, those whom they wish to admit into their body.

The Prince of Orange presides over the equestrian order in quality of first noble of the province, and not of stadtholder.

The body of nobility deliberates separately: it decides by a majority of votes, and this decision carried to the assembly, forms only one vote.

The Prince of Orange, in quality of first noble of Holland, Zealand, &c., is an integral member of the sovereignty, that is, he has a deliberative voice, like any particular town, in the assembly of the states.

The towns which send deputies to the states of the province of Holland, are eighteen: the number of their deputies is not fixed. These towns form a body separate from the equestrian order, and deliberate apart. A majority of the votes of the towns, and not of those who represent them, expresses the resolutions of this body.

A majority of nineteen deliberative voices, in the states of Holland, determines the resolutions of the sovereign authority.

Extraordinary assemblies are convoked by a circular letter addressed to the towns. These towns send their deputies with precise, formal, and determinate instructions, from which it is not permitted them to swerve, without having first taken the advice of their respective constituents. The letter of convocation explains the points which are to be the subjects of deliberation, and is written by a committee of the states permanently fixed at the Hague, and composed of a small number of magistrates, deputies *ad hoc*.

The subjects for deliberation are discussed in the different bodies composing the regencies of the towns which have a vote in the states: these resolutions are carried by a majority of the votes of the regents composing the great council of the town; these regents are reputed to represent the people only.

The number of magistrates composing the town council is not fixed for every town of Holland: in all they are divided into three classes: the first is formed of burgomasters, the second of sheriffs, the third of counsellors.

The votes of the members composing this assembly are of equal weight, and every thing is decided by the majority.

The *counsellor-pensionary*, or minister sent by the towns to the assembly of the states of Holland, is always a member of the council of the chamber of burgomasters, but he has no vote: the equestrian order has also its counsellor-

pensionary: this last is at the same time pensionary of the whole assembly of the states, with the title of *grand-pensionary*.

The grand-pensionary opens the deliberations in the assembly of the states, proposes subjects, collects the votes, in fine, presides over the assembly. He is natural deputy of the province to the states general, and council of state*. His functions last five years, but this period may be extended.

The college of counsellor-deputies, ten for Holland, and seven for Friesland, is charged with the finances and affairs of war, as well as with the care of convoking the provincial states in case of need.

The entire province sends to the assembly of the states-general one deputy from North Holland, two deputies from the council of state, others from the nobility, others in the name of the towns of South Holland, and one in that of the towns of West Friesland, with the pensionary of the province.

§ 3. *Zealand.*

The states of Zealand are composed of two members representing the entire province: the equestrian order forms the first, and is represented by the stadtholder alone in quality of marquis of Flushing and Veer, and who, in his character of representative, gives his vote the first in the provincial assembly, the council of state, and the chamber of accounts.

The second member is composed of deputies from the six towns of Middleburg, Zeirckzee, Goes, Thalen, Flushing and Veer, each of which has one voice.

* Thus, although the grand pensionary, properly speaking, was only the prime minister of the province of Holland, he was so in fact of the seven United Provinces, because this province, having the chief influence, it was natural that the person who directed it, should at the same time direct the whole confederacy.

The states ordinarily meet twice a year ; and extraordinarily, whenever the counsellor-deputies require it. Their resolutions are carried by a majority of votes.

The grand council and provincial court of Holland are common to Zealand.

This province sends four deputies to the states-general, who hold their office for life : they are chosen by turns from among the magistrates of the towns which have the right of suffrage, excepting Middleburg, which has the privilege of always sending a deputy.

The college of the counsellor-deputies, and that of the admiralty, take an oath of fidelity to the states-general.

A chamber of accounts is charged with administering the domains and revenues of the whole country. There is also a court of justice, from which appeals are carried to the states-general.

The synod (*cætus*) assembles only when the states think necessary : each of the four classes of clergy sends there two deputies, who discuss the subject of debate in presence of two other deputies from the council.

The synod decides in the last resort such disputes as are brought before them by appeal from the different classes.

§ 4. *Utrecht.*

The states are composed of three parts ; of the deputies of the nobility, those of the towns, and those of five chapters, namely, the Dôme, Saint Peter, Saint John, the Old Monastery, and Saint Mary.

Each chapter returns a certain number of deputies, forming the first order of the states, under the name of *elect*.

The representatives of the nobility must be nobles by birth, and have possessions in the province : their number is not fixed.

The towns which enjoy the right of sending deputies are Utrecht, Amersfort, Rhenen, Wykby, Dunrside and Montfort.

The vote of the town of Utrecht alone balances that of four others.

The college of ordinary deputies is composed of four elect, four nobles, two deputies from the town of Utrecht, one from that of Amersfort, and one for the three other towns, which send there by turns one deputy every four months.

§ 5. *Friesland.*

The states of Friesland are composed of four integral parts, which exercise the sovereign authority conjointly.

The province is divided into four great quarters; the flat country forming three, and the towns possessing a deliberative voice in the states, a fourth. The votes of these four quarters concur in the decisions and resolutions of the sovereign authority.

The nobles do not form a separate body.

The three quarters of the flat country are divided into several small districts or *griettines*: each *griettine* holds its particular assembly, which is composed of all the heads of families and freeholders of the district. A small field with a house having a chimney, gives the possessor a right of admission into the assembly, and of voting there: his voice has equal weight with that of the richest citizen of the canton.

A citizen elected by a majority of votes, presides over the assembly.

When the *griettines* have adopted a resolution, the president or *griet-man* carries it, in quality of deputy, to the general assembly of the quarter in which the *griettine* is situated.

In this assembly of the quarter, resolutions are adopted

by a majority of the votes of the *griettines* represented by their *griet-mans*, and the resolutions of the quarter are carried to the provincial states by deputies. These deputies have only one vote in the state, and the vote is one of the four which have a decisive weight therein.

The towns of Friesland, taken collectively, have a vote in the states.

Each town has a regency composed of a certain number of magistrates, who represent the citizens, although they are not appointed by them.

The resolutions of each town are carried by a majority of the votes of the magistrates: the resolutions of the quarter formed by the towns, are adopted in a general assembly by a majority of the votes of the towns, represented by their deputies.

The general assembly appoints the magistrates who are to represent it in the states, and who have only one deliberative voice.

The deputies of the four quarters, forming the states of the province, treat of the general and particular affairs of the province, and of every thing which relates to the confederacy: they cannot deviate from the instructions which they receive from their high constituents.

In case of division, two quarters of the flat country, voting together, carry the resolution.

For carrying into execution the orders of the states, there is a college of deputies composed of nine members, who are changed every three years. The towns furnish three of these members, and the *griettines* six.

The provincial court of Leuwarden is the supreme tribunal of Friesland.

The province is represented in the assembly of the states-general by five deputies; two in the name of the three quarters, two in the name of the towns, and the fifth in the name of the towns and quarter of Zevenwolden conjointly.

§ 6. *Over-Yssel.*

The states invested with the sovereign authority have two integral members; the body of nobles, over which the prince of Orange or his representative presides, and that of the towns having a deliberative voice.

All the noble families of the province are admitted to the states, not only the heads of families, but such sons, brothers, &c., as have attained the requisite age.

The towns are three in number, and are reputed to represent the people of Over-Yssel: these are Deventer, Kampen, and Zwal.

General resolutions are decided by four votes: the nobles, as a body, have one, and the three towns each one. When two towns are of one opinion, and the third is of the same opinion as the equestrian order, the latter carries it. If the three towns are unanimous against the equestrian order, there is a division and equality of votes, and the question is determined by the casting vote of the stadtholder.

To gain admission into the general assemblies, a gentleman is obliged to prove, not only that he is a noble, and professes the reformed religion, but that he is twenty-four years of age, and possesses a property in land (*havezaat*); that he possesses immoveable effects to the value of more than twenty-five thousand florins.

The regencies of the towns of Over-Yssel are composed of sixteen counsellors, who are all burgomasters. These counsellors form the town councils when the general affairs of the province are discussed in relation to the confederacy.

Two of these burgomasters govern in succession during six weeks: they are appointed by the stadtholder.

When the particular affairs of the town, and its territory, are the subjects of discussion, the town council is composed of sixteen burgomasters, and forty tribunes of the people.

The burgomasters can decide nothing contrary to the opinion of the tribunes, if they have the majority of votes in their favour.

The tribunes elect their own members, and from their body the burgomasters are taken.

The council of state and finance is composed of six persons, of whom three are appointed by the nobles, and three by the towns.

The three chief towns, so far as the administration of justice is concerned, acknowledge no superior.

Over-Yssel sends five deputies to the assembly of the states-general; two from the body of the nobility, and one member from the regency of each chief town.

§ 7. *Groningen.*

The states are composed of two integral members; the town of Groningen, the only one which has a deliberative voice in the states of the province, and the Ommelands or flat country.

This province has no distinct and separate body of nobles.

The Ommelands are divided into several small districts corresponding to the griettines of Friesland. These districts deliberate in the same manner as in Friesland: their resolutions are adopted in the same way, and are carried to the general assembly,—See *Friesland*.

The stadtholder has in this province the same rights, prerogatives, and privileges, as in Friesland.

The deputies of the Ommelands are chosen in part from among the nobility, and in part from the class of labourers. Both must possess a certain extent of landed property.

There is a college (of states deputies) composed of eight persons, of whom four are taken from the town of Groningen, and four from the Ommelands, and a provincial court which constitutes the sovereign seat of justice.

Groningen sends six deputies to the states-general.

REVOLUTION OF 1795.

THE same series of successes which led to the subjection of the Austrian Netherlands by France, conducted the arms of that power into the United Provinces. A large part, if not a majority of the inhabitants, favoured the progress of the invaders. The old anti-Orange faction, always formidable, was now strengthened by the partisans of the new republican sentiments, who, excited by the same feelings of hatred towards the stadtholder, and zeal for the subversion of ancient institutions which animated the French themselves, invited their co-operation, and every where hailed them as deliverers.

The winter campaign of 1794-95 decided the fate of Holland. The natural defences of the country, its numerous rivers and dikes, frozen over by the severity of the season, only facilitated the progress of the invaders, by affording them an easy passage into the heart of the country. The British were compelled to abandon it. The stadtholder, after some ineffectual attempts at peace, embarked for England. The whole country was subdued by France; and the republican party, under their auspices, immediately commenced the work of revolution.

DECLARATION OF THE RIGHTS OF MAN AND OF A
CITIZEN.

LIBERTY, EQUALITY, FRATERNITY.

The provisional representatives of the people of Holland, believing it a duty which they owe their fellow citizens to make a solemn declaration of the principles on which their

proceedings and actions are founded, to all who these presents shall see or shall hear read, greeting.

BE IT KNOWN, that we are thoroughly impressed with the opinion that the power confided to us rests entirely on the free choice of our fellow citizens, and that it is from their election alone we have received it; that the supreme power, far from belonging to us, resides essentially in the people, and this in such manner, that while they can confide the exercise thereof to their representatives, it is forbidden them ever to alienate it; that we are fully assured that the evils which now weigh so heavily on this country and on the other provinces, are principally to be attributed to the perverse ideas which have been instilled into the people by artifice and violence; and therefore it is the duty of the representatives of the people who desire to be faithful to their trust, to lay down certain and evident principles, and to fix them as the rules of their conduct; and although we think the final settlement of these rights ought to be the first work of a national convocation of the representatives of the whole people, still in justice to the confidence which our fellow citizens have placed in us, we think it our duty thus publicly to make a solemn acknowledgment of the rights of man and of a citizen, in declaring, as by these presents we do acknowledge and declare;

“ That all men are born with equal rights, and that these natural rights cannot be taken from them;

“ That these rights are *equality, liberty, security, property, and resistance to oppression*;

“ That *liberty* is the power which belongs to every man of being able to do what does not affect the rights of other men, and consequently, that its natural limits are found in this principle: *Do not that to another which thou wouldst not that he should do to thee*;

“ That it is therefore permitted to all, and to each, to

make known his thoughts and sentiments to others, either by way of the press, or in any other manner;

“ That every man has a right to serve God in any way he pleases, without being liable to be compelled to any particular form of worship ;

“ That security consists in the certainty of not being molested by another in the exercise of one's rights, nor in the peaceable possession of property legally acquired ;

“ That every one has a right to vote in the legislative assembly of the entire society, either personally, or by a representative in whose election he has concurred ;

“ That the end of all civil societies ought to be to secure men in the peaceable enjoyment of their natural rights ;

“ That, consequently, the natural liberty of being able to do every thing which does not interfere with the rights of another, can never be opposed, except when the end of civil society absolutely requires it ;

“ That limits of this kind can never be imposed on natural liberty, except by the people or their representatives ;

“ That, consequently, no person can be compelled to cede or sacrifice any part of his individual property to the community, unless such sacrifice be expressly called for by the will of the people, or their representatives, and after a previous indemnity ;

“ That the law is the free and solemn expression of the general will ; that it is equal for all, whether it punishes or rewards ;

“ That no person can be judicially accused, arrested, or put in prison, except in such cases, and according to such formalities as are previously determined by the law itself ;

“ That in case it be thought necessary to retain any one prisoner, he ought not to be treated more rigorously than is absolutely necessary for the security of his person ;

“ That all men being equal, all are eligible to public posts and employments, without any other motive for preference than such as arise from virtue and capacity ;

“ That every one has a right to concur in requiring from every officer of the public administration, an account and justification of his conduct ;

“ That no opposition can be offered to the right enjoyed by every citizen of representing what is his interest to those to whom the public authority is confided ;

“ That the sovereignty resides in the people entire, and that no portion can arrogate it to themselves ;

“ That such are the principles upon which we have thought it our duty to found our conduct and proceedings; and that willing to apply them to the order of things which formerly existed, we forthwith perceived that the form of government confirmed in 1787, by means of the invasion of the Prussian army, and consequently by force, was in every respect contrary to the same ;

“ That the persons who formerly composed the assembly of the self-called states of Holland, and West Friesland, were never chosen by their fellow citizens for their representatives; and that consequently the existence of such a government was incompatible with the rights of man and of a citizen; that we from the first perceived that all hereditary dignities, such as those of hereditary stadtholder, captain-general and admiral of this province, and of the equestrian order, as well as all hereditary nobility, were repugnant to the *rights of man*; and that accordingly, all ought to be held and declared abolished, as they are declared abolished by these presents ;

“ That sensible as we are that all the forced and unlawful oaths for the observance of the old constitution, and which were prescribed in 1787 and 1788, supposing them to have been before of some import, became by this circumstance of no value; yet, nevertheless, to set at ease and

tranquillize the minds of all and every one, we further declare, in the name of the *people of Holland*, as it is most fully and expressly declared by these presents, ‘ That all
‘ citizens who have taken the said oath are, by these presents, entirely discharged from the obligations of the
‘ same ;’

“ That with these principles, also, were found wholly incompatible the college, as it was formerly called, of the counsellor deputies of the quarter, both north and south, the division of the economic administration, as well with regard to the finances as otherwise, and the chamber of accounts of Holland and West Friesland—as having also emanated from the old defective form of government, in which no real representation of the people prevailed ; and that consequently, we have thought it our duty to suppress and annihilate all the said colleges of counsellor deputies, both of North and South Holland, as we do declare them suppressed and abolished by these presents ; and that for the fit and prompt discharge of the duties attached to the said colleges, we have thought it our duty to establish and constitute, as we do by these presents establish and constitute a committee of *public safety*, whose functions shall entirely supersede those of the late counsellor deputies as to every thing that concerns the particular and economic interests of the whole province, and which were heretofore assigned to the said two colleges ; and moreover a military committee for the management of every thing that concerns the military order, and the military affairs of the entire province ; a committee of finance for conducting the financial affairs of the whole province ; and finally, a committee of accounts, for taking up and superseding the duties of the chamber of accounts of Holland—the whole, provisionally, and until definitive arrangements are made relative to the same by an assembly of representatives chosen by the whole people, who shall be convoked for this purpose as early as possible ;

that besides, we have thought it our duty to attach to our assembly no other title than that of *provisional representatives of the people of Holland*, without adding thereto the words West Friesland, having thought it better to comprise the entire province of Holland under that denomination.

“ We will and expressly order the courts of justice sitting in this province, together with the regencies of the towns and places therein situated, to communicate this, our present proclamation, to all the citizens of the said province, and this with all possible solemnity, whether it be with the sound of trumpets and ringing of bells, or in such other solemn manner as in each town or place shall be thought the most expedient, and furthermore, that the said presents be posted up and advertized wherever this is usually done, and that every one strictly conform thereto.

“ Done at the Hague, the 31st of January, 1795, the first year of Batavian liberty.

“ (Signed) P. PAULUS, Vt.,

“ C. I. De Lange Van Wingaerde.”

ESTABLISHMENT
OF
THE BATAVIAN REPUBLIC.

THE victories of the French armies had subdued Holland. The French government thought it part of its policy to give the neighbouring states constitutions similar to its own (that of the directory). After several fruitless attempts, and much disorder, the Batavian republic was placed under a directorial government. The constitution which established it, promulgated the 1st of May, 1798, had only an ephemeral existence which may excuse us from the task of giving it at length. Its principal articles were taken from the French constitution then in force.

The revolution in France of the year 8, was not without its influence on Holland, and a new constitution was there proclaimed in 1801.

The Batavian directory, in a sitting of the 14th of September, decreed a new project of a constitution, which it immediately submitted to the approbation of the Batavian people. It communicated this measure, together with the proclamation which it had just addressed to the Batavian people, to the legislative body.

The legislative body, by a majority of two votes, resolved to suspend the effect of this proclamation. The directory persisted in its resolution, and adjourned the legislative body. It ordered, moreover, the closing of the two chambers, and the opening of registers for receiving the votes of the citizens.

The 16th of October, the directory communicated to the nation the result of the returns. Of 416,419 citizens

having a right to vote, there were only 52,219 against the project.

The directory, considering the constitution accepted, immediately proceeded to the appointment of seven members for forming the regency of state, and accordingly elected the following citizens, William-Aarnom de Beveren, Gerard Branlsen, Samuel Van-Stoogstraten, David Corneille de Leeuw, William Queysen, James Spoors, and John Baptist Verheyen, who in their turn, to complete the number of twelve, chose Anthony Frederic Robert Even Van Staërsolte, Augustin Gérard Besier, Gerard John Pymaw, Otto Lewe, and Egbert Sjdek Gerold Junkerman Van Burmania Reugen. The regency thus formed appointed the citizen de Beveren president, and for their secretary the citizen Stulsman.

The first sitting of the new government was opened by a speech from citizen de Beveren. "The period," said he, "at which we are called to the government of the republic is without doubt one of the most memorable recorded in the annals of our country. After the calamities of a war which seemed interminable, we at length behold that peace so often implored by the wishes of suffering humanity; a peace, let us declare it with freedom and confidence, that will extricate Batavia from a calamitous struggle, and this on conditions too, which, all the circumstances of our situation considered, surpass our expectations; a peace which, reviving the fondest hopes, will quickly open to us again all the sources of our prosperity.

"Still, my colleagues, all these benefits would be lost to our country, if to the happiness of external peace, we could not add that of tranquillity within.

"At the moment when we behold the great national quarrel decided, let us have the magnanimity to repel far from our thoughts all ideas of party triumph: let

“ us labour in the generous design of consigning all
“ animosities, all thirst of vengeance, in fine, all the
“ frightful passions engendered by civil discord to an
“ eternal oblivion. Let persuasion, let good examples,
“ and not violence, command assent to our republican
“ institutions. Let us encourage real talents, pity error,
“ leave all opinions free, and suffer the laws to punish
“ crimes alone. Such are the maxims I would inculcate
“ as containing the durable elements of our reviving pros-
“ perity: Be it the business of all to preserve them as a
“ sacred deposit ; the ancient Batavian virtue, the wisdom,
“ the probity, the industry of the people, will perform the
“ rest.”

CONSTITUTION.

GENERAL PRINCIPLES AND DISPOSITIONS.

Art. 1. The happiness of all is the first of laws. Consequently, no member or section of society can derive advantage from any particular law, to the prejudice of the rest.

2. All the members of society are equal before the law, without distinction of rank or birth.

3. Every citizen is at liberty to act as he pleases, but remains responsible to, and according to the law, as well for his actions, as for the propagation of his sentiments.

4. The law lays down the necessary regulations for securing to every citizen an honest subsistence, but all exclusive privileges or affiliations are abolished.

5. Every inhabitant is maintained in the peaceable possession and enjoyment of his property. No one can be deprived of any part of his possessions unless the general

welfare should imperiously call for it, and in this case he receives a just and suitable indemnity.

6. Every inhabitant is inviolable in his residence: no one can enter therein without his consent, and only in pursuance of an order emanating from a competent authority.

7. No one can be arrested except according to law. No one can be judged or condemned except by a judge recognised by the constitution and the law, nor until he has been summoned conformably to the mode which they prescribe, and has obtained all the means of defence determined by the same.

8. Every citizen must be heard within three days after he has been placed at the disposal of his proper judge. A communication of the grounds of his arrest cannot be refused him: the law determines the punishment of the judge who acts in opposition to these regulations.

If the examination and grounds of arrest have not been communicated within the time above prescribed, the detained person is of right released and immediately set at liberty.

9. All useless severity in the detention of prisoners is forbidden. All violent means used to extort confessions from them are abolished.

10. Every citizen has a right to address, in writing, petitions and propositions to the competent authorities, provided they are signed individually: except in this case, they can only be presented by bodies constituted by law, and must bear on such subjects only as relate to the functions they discharge.

11. All religious societies which acknowledge a supreme being, and render him homage, tending to the promotion of virtue and good morals, are equally protected by the law.

Every religious society publicly professes its opinions, and grants free access to the places consecrated to the exercise of its worship.

12. All heads of families, and independent persons, of both sexes, who have attained the age of fourteen years, are required to enroll themselves in one of these religious societies, which they may freely quit to enter into another.

Each society requires from its members an annual contribution for the support of its ministers and property: this contribution, however, shall never exceed the sum stipulated by law.

13. Each religious society remains irrevocably in possession of what it possessed at the commencement of this century.

14. Exclusive civil rights cannot be attached to any one religious society in particular.

The doctors, ministers, and ecclesiastical servants of the reformed religion, heretofore dominant, who being in the enjoyment of salaries or pensions on the public treasury, are now in the exercise of their functions, shall continue to enjoy the said pay and pensions, until the complete execution of the regulations laid down in Art. 12.

15. All laws and regulations which, from the commencement of the year 1795, have derogated from the value of property or possessions legally acquired, are subject to revision.

Whoever has been injured by a law of this kind, is at liberty to address himself to the regency of state, which shall propose to the legislative body either the repeal of the law, its revision, or a just and suitable indemnity, as the exigency of the case may require.

16. The feudal system is abolished: all fiefs are declared allodial. The law provides an indemnity for seignorial proprietors.

17. The Batavian people wills that the national guard, established for the security of liberty and national independence, shall be encouraged by all suitable means.

18. No citizen forming part of this guard is obliged to serve out of the territory of the republic.

He is not obliged to serve out of his department, without a decree of the legislative body, and only in case of an attack from an enemy.

The active service of the national guard in each department is definitively determined by law.

19. The same species of money shall be coined and made current throughout the whole republic, on the footing and title to be established by law.

The weights and measures already known in the republic shall be subjected to uniform regulations.

The law shall determine the time and mode of carrying this article into execution.

20. The Batavian republic is one and indivisible.

21. Its European territory remains divided into eight departments, of which the limits shall be those of the old provinces, saving the following modifications.

The country of Drenthe shall remain united to the former province of Overijssel, and Dutch Brabant shall form the eighth department. The Ommelands shall form part of Friesland; Wedde and West Woldingerland, of Groningen; Ysselstein, of Holland; Viane, of Utrecht; Kuilenburgh Buren, of Guelderland.

The law shall finally determine to what department those territories shall belong, which are already, or shall be hereafter annexed to the territory of the republic.

22. Each department shall be divided into a number of districts in proportion to its extent. The election of the members of the departmental administrations shall take place according to this division.

23. The present division into primary assemblies is maintained for the election of the members of the legislative body.

24. To constitute an active citizen, it is necessary for a

person; 1st. To be enrolled on the national register of the place of his domicile; 2d. To be 21 years of age complete, or to form part of the national guard; 3d. To have constantly resided in the republic during the preceding year, if a native of the country, and during the last six years, if a foreigner; 4th. To be able to read and write the Dutch language, a regulation, however, which shall not extend to citizens enrolled before the 23d April, 1799; 5th. To have made the following declaration: "I promise fidelity to the constitution, and submission to the law."

25. The following are excluded from the right of voting:

1st. Those who are in the service of, or receive any pension from, a foreign power; 2d. Servants at wages attached to the service of the person, and household; 3d. Such as are maintained in houses of charity, asylums for orphans and deaconries; 4th. Such as, during the last six months, have been supported from the poor chest; 5th. Those who are under the care of guardians on account of misconduct, dissipation, or derangement of the brain; 6th. Bankrupts, with such as have made an assignment of their property, so long as their creditors remain unpaid; 7th. Those who are in a state of accusation, or by a judicial sentence, are acknowledged infamous.

26. The law shall determine the manner in which the right of suffrage is to be exercised, and the property requisite for an elector.

27. Ministers of every religion are declared ineligible to functions depending on the government.

28. Military persons cannot exercise the right of suffrage except in the place of their domicile, and on condition that this is distinct from that in which they are in garrison.

Of the Government.

29. The government is confided to a regency of state composed of twelve members. These are chosen from

among such active citizens as have been born within the republic, are thirty years of age, have resided in the republic during the last six years, and are not related, or allied to any other member of the regency within the fourth degree. The said members enjoy an annual pay of 10,000 florins.

30. For this time, seven of its members are immediately nominated by the executive directory now in being: these seven proceed to the choice of five others; and the twelve regents thus appointed elect one of their own number for a president, who holds his office for three months.

If within six months after the installation of the regency of state, one or more vacancies occur, the remaining members shall proceed, within eight days, to fill up the said vacancy.

31. The regency of state frames the rules of order to be observed in its sittings. It is divided into as many commissions as the different branches of the administration render necessary. These commissions are employed in the despatch and particular examination of the affairs which are referred to them by the council.

32. To the regency of state is attached, besides a secretary-general, a secretary of state, holding the department of foreign affairs;

Three other secretaries of state, holding the departments of the marine, war, and the interior; or if thought more convenient, in place of the three last, three councils, each composed of three members;

Finally, a council of finance, composed of three members, and a treasurer-general.

33. The secretaries of state, or the councils which take their place, are charged with administering the affairs of their office, as well as with the execution of the orders which are transmitted to them by the regency, conformably to their instructions, and on their responsibility.

They are appointed by the regency of state from a triple list, drawn up by the section of the council of regency, attached to the department to which they belong.

34. One member of the regency of state goes out every year. This shall take place, for the first time, on the 1st of November, 1802, according to the order determined by lot for the annual exit of all the members.

To fill up the vacant places, the departments shall proceed in the order hereafter prescribed, to the appointment of four persons, of whom the list is sent to the regency. This body reduces the number to two, and from these the legislative body finally chooses one.

In order that the whole nation may concur in the election of the regency of state, the departmental administrations, in case of vacancy, are permitted to proceed to the nomination of its members, in the following order:—

1st. The administration of Holland, 2d. of Zealand, 3d. of Friesland, 4th. of Brabant, 5th. of Holland, 6th. of Groningen, 7th. of Utrecht, 8th. of Overijssel, 9th. of Guelderland, 10th. of Holland, 11th. of Zealand, 12th. of Guelderland. Provided, nevertheless, that at the 11th and 12th turns, two other departments concur in the nomination, as 1st. those of Zealand and Guelderland, 2d. of Friesland and Overijssel, 3d. of Brabant and Utrecht, 4th. of Groningen and Holland, and so on.

All the places which fall vacant in the interval between one nomination and another, if they have been already once filled up according to the order above laid down, shall be anew filled up by the same departments which presented the members going out; but if the vacancy takes place directly after the first nominations, and before it has been practicable to carry the preceding regulations into effect, the legislative body shall proceed to fill up the vacancy from a triple list presented by the regency of state.

In both cases, the newly-elected persons shall take their

seat for the time those would have had to occupy it, whom they replace.

35. The regency of state appoints the ministers and agents to foreign powers, and all the officers of land and sea.

36. The appointments to public administrative functions, save the exceptions laid down by the constitution, are made with the concurrence of the colleges, or other constituted authorities.

The said colleges present a triple list to the regency of state, which from thence selects whom it thinks proper. The regency, nevertheless, has a right to reject this list, and to demand that a new one be presented to it.

As for subaltern employments, they are filled up by the colleges or other constituted authorities to which they are subordinate ; but the rules for fixing their pay are subject to the approbation of the regency of state.

37. The regency has the privilege of first proposing all laws : It promulgates the said laws after they have received the sanction of the legislative body.

38. It cannot exercise, in any case whatever, any legislative power, neither can it dispense with the execution of any law.

39. It concludes treaties of peace, alliance and commerce, subject to the ratification of the legislative body.

It can contract, without having recourse to this ratification, secret articles, provided they contain nothing contrary to the open articles, to subsisting treaties, and that they do not relate to the cession of any part whatever of the territory of the republic.

War cannot be declared without a decree of the legislative body.

40. The regency of state has the management of the national finances : it regulates the pay of the national functionaries, and fixes the annual amount of the public expenses. It presents a list thereof to the legislative body, to which exclusively belongs the right of authorizing them.

If the ordinary revenues are insufficient to meet the ordinary expenses, the regency of state points out to the legislative body what new impositions it thinks ought to be established.

As for extraordinary expenses, the regency proposes the establishment, either of an extraordinary tax, or of a voluntary or forced loan; taking care, in this case, to annex to the proposition a statement of the funds necessary for meeting the payment of the interest, as well as for the sinking or redemption of the capital borrowed.

41. The regency of state submits the rules for granting pensions, to the approbation of the legislative body.

42. It disposes of the fleets and armies of the republic. The chief command can never be confided to a member of the regency.

43. It has the superintendency of the police throughout the whole extent of the republic. That of the place of its residence, as well as the appointment to all employments which may depend thereon, is exclusively assigned to it.

44. A council of marine, composed of seven persons, is in the appointment of the regency of state, to which it is responsible for its conduct. It is charged with administering and conducting all affairs relating to the levy of taxes *on the waters*, or what is termed *convoys and licenses*; with deciding all affairs relating to armed vessels or cruisers, as well as with pronouncing judgment on prizes.

All affairs relating to pilotage are equally under its cognizance.

The council conforms itself to the rules enacted by the regency of state, and approved by the legislative body.

45. The regency of state in like manner is charged with promoting the progress of the arts, sciences, education, agriculture, and manufactures, and shall institute such an establishment as it shall deem best calculated to accomplish this end.

46. A chamber of accounts is established composed of

nine members, in the nomination of the legislative body. It is charged with annually receiving and liquidating the accounts of the different departments of the state, with causing all the national accountants to deliver in good and true statements of their various expenses.

In its administration, it is dependent on the instructions which it receives from the regency of state, and which have been approved of by the legislative body.

One of its members goes out annually: the order in which they retire is determined by lot.

When a vacancy occurs, the chamber presents a list of five persons to the regency of state; the regency reduces this number to three, and from these the legislative body finally chooses one.

47. Two councils of particular administration are established for the commerce and possessions of the republic in the two Indies.

That of the East Indies is composed of nine members; that of the West Indies of five. They are both subordinate to the regency of state.

They are charged with the particular administration of the revenues arising from the possessions within their respective jurisdictions: if these revenues do not cover the expense, the deficiency is made up from the national treasury, in which, on the other hand, they deposit the excess, when there is any.

They superintend the administration of justice and police in the said possessions, and make the necessary dispositions for their defence, when this has not been directly provided for by the regency.

They are responsible to the regency, and are bound to present to it, every year, an account of their receipts and expenses, supported by all the documents and pieces in proof of the same.

48. The internal administration of, and the laws relating to the colonies, are fixed by their respective charters.

They shall remain united to the republic under one and the same general government: all particular grants are abolished.

Of the Legislative Power.

49. The legislative body is composed of thirty-five members appointed, for the first time, by the government, and within eight days after its installation.

50. Twelve amongst them chosen by a majority of votes, for the period of one ordinary or extraordinary session, discuss the laws proposed. The discussion of all projects presented in the first week of an ordinary session must be terminated, at the latest, the last day of the session, that is, on the 30th of May or the 15th of December.

When extraordinary convocations take place, the propositions which have given rise to the same, must be passed before the separation of the legislative body, and at the latest, within a month.

The members of the legislative body declare by *yes* or *no* their sentiments on the projects which are presented to them. These projects may be withdrawn at any period of the discussion.

51. If the project is rejected, the regency of state is at liberty to appoint three of its members to explain and defend, before the legislative body, its motives for proposing the same: if the legislative body persist in rejecting it, the project cannot be again brought forward.

52. In this case, the motives for the refusal of the legislative body must be assigned; and the regency preserves the right of presenting another project.

53. To the legislative body alone belongs the right of dispensing with the observance of laws, and granting letters of remission and pardon, after having taken the opinion of the national high court.

54. The legislative body ordinarily meets twice a year; *viz.*, from the 15th of April to the 1st of June, and from the 15th of October to the 15th of December. On extra-

ordinary occasions it assembles as often as it thinks fit, or when called together by the government.

It holds its sittings in the same place as the regency of state. It is renewed by thirds the first of June in every year; and the first renewal shall take place in 1802.

The pay of the members of the legislative body is fixed at 4000 florins.

To be a member of the legislative body, it is necessary to be at least thirty years of age, and to possess the qualifications required by Article 29, for members of the government.

55. The law determines the manner in which the election, and replacing of its members, take place.

Of the Finances.

56. The debts and obligations contracted, not only by the generality, and in its name, but also in the name of the different provinces, of the three quarters of Guelderland, of the country of Drenthe, of Dutch Brabant, and of the East India company, are declared national debts and obligations.

Contracts of rents, obligations, and all other obligatory acts, shall be exchanged, with the least delay possible, for national obligations, without any deduction whatever of capital or interest.

57. The taxes at present in force are maintained on the same footing, in each of the late provinces. Nevertheless, the laws and ordinances relative to the same shall be subject to revision, and the taxes be liable to be abolished, and replaced by other impositions, equally general.

With regard to such as are established for defraying departmental expenses, the departmental administrations shall have the power of modifying or extending them, as the necessities of their respective governments may require.

58. The law determines such of the taxes now in force as are to be pledged for the payment of the general expenses of the government of the republic, and those which are to be left to the departmental administrations for defraying the particular expenses of each department.

When these taxes are insufficient, each departmental administration has a right to lay additional ones, and this in such manner as it may conceive the most suitable to the interests of the department, provided, however, that the legislative body, on the motion of the regency of state, shall have sanctioned the same.

The sanction can only be refused when, from their nature or mode of collection, the levying of the said taxes might prove prejudicial to the recovery of the general taxes, or when they are contrary to the regulations laid down in Art. 66.

When the fixed revenues of the national treasury prove insufficient for the usual annual payments, the law, conformably to Art. 40, authorizes the assessment of new imposts on all the inhabitants of the republic, in proportion to their incomes.

59. Every year, on or before the 1st of November, the regency of state presents to the legislative body an estimate of expenses for the following year, and the means it has of meeting them.

This estimate does not include the sums annually granted for secret expenses. These are made the subject of separate petitions to the legislative body, which, after having deliberated four weeks in a secret committee, and obtained from the regency all necessary explanations, decrees on the same, on or before the 15th of December at the latest.

60. The extraordinary petitions presented to the legislative body may, in like manner, be the subject of its secret

deliberations for a period not exceeding fifteen days, after which time, the discussions are rendered public, and must be terminated within the space of eight days.

61. The regency, with the estimate mentioned in Art. 59, presents to the legislative body that of all the receipts and expenses of the national treasury during the preceding year.

It adds thereto a declaration, subscribed by all its members, that it has employed the money granted for secret expenses, to the greatest advantage of the republic.

Of the Departmental Administrations.

62. Each departmental administration is composed, in proportion to the population of the department, of from seven to fifteen persons, domiciled in the department, and subject to the same conditions, as to eligibility, as the members of the legislative body.

The law, conformably to Art. 22, determines the mode of electing them, and the order in which they are to go out of office.

Until the said law be carried into execution, the administrations shall remain on their present footing.

63. The regency of state appoints a commission in every department, for the purpose of drawing up a regulation for the government of the central administration, according to the tenor of the preceding article.

These regulations, within two months after the said commissions are installed, are sent to the regency, which carefully examines whether they contain any thing contrary to the constitution, or to the interest of each department in particular.

They are also subject to the approbation of the active citizens of the respective departments.

64. The regency decides all contests between the members

of different departments, as well as between those of the same department, and between them and the communes.

65. Each department regulates the expenses of its internal administration, rates the charges attending the administration of justice and police, so far as the same ought not to be defrayed from the particular treasuries of the communes, and fixes the amount necessary for keeping in repair the public buildings, dikes, sluices, &c.

In the case of melancholy and unforeseen accidents it gives notice thereof to the regency of state, and demands that the necessary assistance be afforded from the national treasury.

66. The departmental administrations present every year to the government a statement of the ordinary wants of their department, and at the same time point out such of the existing taxes as ought to be paid into the departmental treasury, and be considered for the future as departmental taxes.

If the existing taxes are considered insufficient, the departmental administrations propose new ones, conformably to Art. 58 ; provided that they take care not to levy them on articles of import and export between the departments, neither to impose on the productions of the soil or industry of another department, a heavier tax than that imposed in this same department.

67. For contributing to extraordinary expenses, and in cases of urgency, the departmental administrations, with the approbation of the government, and under the sanction of the legislative body, may contract loans, mortgaging at the same time particular funds for the extinction of the debt, and payment of the interest.

68. To the departmental administrations is assigned the appointment of the tribunals, of the public functionaries, and other subaltern officers necessary to the administration of their departments.

They look to the repairs of the dikes, canals, sluices, roads, &c., of which the maintenance is chargeable to the communes, to colleges, or individuals.

69. They take care that the works by them authorized (or such as are authorized by the colleges especially charged with their management,) for the keeping in due repair the canals, streams, and mouths of rivers, do not prove prejudicial to the inhabitants of other departments, following in this respect the instructions of the government, and communicating to it the plans which they have determined upon.

70. The departmental administrations, by every means in their power, shall ensure execution to the orders of the government, whether direct or indirect, and are responsible for the same.

71. They have the direction of every thing which concerns the internal police of their department, its economy and finances; they may make regulations and issue ordinances relative to the same; provided always that such regulations are not contrary to the tenor of the general laws.

They grant, when the exigency of the case requires it, letters of *venia ætatis* to minors.

72. They take care that the communal administrations, of which mention will be hereafter made, be promptly established, and in a firm and suitable manner.

Of the Communal Administrations.

73. No new division of departments or arrondissements into communes is authorized except with the consent, and at the instance, of those concerned.

Each town, district, or village, has its own communal administration, established on the plan which it has itself presented for the approbation of the departmental administration, provided it be founded on the principles of popular and periodical election.

74. Each commune attends to its domestic affairs, and makes all the local arrangements necessary to its welfare.

75. It cannot establish local taxes, except in concert with the deputies of the commune, who are chosen according to a regulation approved of by the departmental administration.

These taxes must be sanctioned by the departmental administration, and cannot be levied on articles of transit, exportation or importation, neither on the productions of the soil or industry of other towns and villages, beyond the rate paid by articles of the same kind in the place itself where the local tax is collected.

76. The members of municipalities cannot, under any pretence, be summoned, suspended, or dismissed, by a departmental administration.

On charges of negligence in the exercise of their functions, they are tried by the national high court

Of the Judicial Power.

77. The judicial power is exercised by judges established by the constitution, or in conformity with its principles.

78. The judges and public accusers of the same tribunal, at the period of their entrance into office, cannot be related or allied to each other within the third degree.

No one can exercise the functions of a judge, if he is not an active citizen and full twenty-five years of age.

79. All judges, when required, are obliged to assist each other in the execution of their respective judgments and sentences, as well as to render justice to demands known under the name of *letters requisitoriales*.

In case of any difference arising on the subject, the court of departmental justice decides, provided the parties are all within its jurisdiction; or if otherwise, the business is brought before the national high court.

80. In criminal affairs, the final sentence pronounce

against an accused person is null and void, if the offence is not expressed therein.

All sentences and decrees are pronounced with open doors. Confiscation of property can never take place. Justice, throughout the republic, is administered in *the name of the Batavian people*.

81. The tribunals of the ci-devant provinces preserve the jurisdictions they at present enjoy.

The departments in which there are no courts of justice are at liberty to establish them; but the mode of instituting the same must be laid before the government, and be sanctioned by the legislative body.

82. The plan for organizing the inferior tribunals in the different communes, is communicated by the communal administrations to those of their respective departments; the latter taking care that such tribunals, as far as possible, are established on the same footing.

83. The forms of procedure, as well before the high court, as before the military tribunal, (of which mention will be here after made,) the maritime council, the departmental courts of justice, and other inferior tribunals, are regulated by law.

84. The government, after having taken the opinion of the high courts of justice, and with the least delay possible, shall present for the sanction of the legislative body, a code of civil and criminal laws.

85. If the introduction of this code should require a fresh organization of the judicial power, the motion for it, supported by such considerations as shall be addressed by the departmental administrations on the subject, shall be free to emanate from the regency of state or the legislative body.

86. Military persons of all ranks, and seamen, are subject to the civil jurisdiction only in civil affairs, and for common offences.

87. A supreme military tribunal is established for taking cognizance of, and trying persons in the land and naval forces of the state, on the accusation of two fiscal attorneys.

It is composed of an equal number of marine officers, land officers, and jurisconsults. The law lays down the rules and ordinances for constituting them, and according to which they are to pronounce judgment.

The members of this tribunal, and the fiscal attorneys, are appointed by the government.

88. The law lays down the mode of procedure in cases where fraud or contravention is practised on the impost laws.

Of the National Court of Justice.

89. This court is composed of nine members, who, immediately after the installation of the legislative body, shall be appointed and installed by a majority of votes, by five members of the legislative body, chosen by it and be the president, and by five members of the regency, alike deputed for this purpose.

90. The members of the national court of justice hold their office for life. They must possess all the qualifications required by Art. 29 for members of the regency of state. In case of vacancy they form a list of two persons, to whom the regency adds two others. From these four persons the legislative body selects one.

91. The national high court of justice takes cognizance of all offences committed by members of the legislative body, of the regency of state, and other public functionaries in the exercise of their functions, even after they have ceased to exercise the same; in one word, of all actions which, during their administration, might have rendered them criminal.

92. It pronounces judgment in all causes in which the republic is directly interested as a party.

93. It exercises a special superintendency over the courts of justice and tribunals of the Batavian republic.

It can suspend or annul their sentences and proceedings when contrary to the laws for the administration of justice, or to the prescribed forms. If there are any grounds for accusation, it may authorize the public accuser to assert the rights of the people: it cannot, however, take cognizance of the merits of causes.

94. Appeals are made to this court from all judgments rendered in causes which have been brought, in the first instance, before the departmental courts of justice; that course, in such cases, being followed, which is laid down in the law relative to the general form of proceedings.

95. It can never pronounce a final sentence, except at least seven of its members are present.

96. It grants delay of payment, letters importing security of person, and, in general, dispensations of every kind, conformably to the authority which it receives for this purpose from the legislative body; dispensations of age or letters of *venia ætatis* excepted, which by Article 71 are attributed to the departmental administrations.

97. It has the power of revising its sentences, save in criminal cases where the demands of the public accuser have not been admitted.

The assistant revisers are taken from the departmental courts of justice. The law determines in what cases revision is permitted, the number of assistant revisers, and the general order to be observed in the proceedings.

98. The public accuser or attorney-general attached to the national court of justice, as well as the attorneys-general attached to the departmental courts of justice, are chosen by the regency of state from a list of three persons

drawn up by the national court of justice and the departmental administrations respectively.

99. Besides the ordinary public accuser, three national attorneys or syndics are attached to the high court: they are appointed for the first time in the manner prescribed in art. 89, for the election of the members of the high court of justice: they must be doctors in law, and possess, moreover, all the qualifications required by Art. 29.

These three persons form the *national syndicate*. When a vacancy occurs, the national court of justice presents a list of three persons, and from this list the legislative body selects the new syndic.

The national syndicate watches over the colleges and magistracies, the national, departmental, and other inferior constituted authorities, the tribunals and public functionaries of every description.

It takes care that nothing is practised contrary to the constitution and established laws. With the view of gaining the necessary information it receives all the complaints that are addressed to it on this subject. If it finds room for accusation, it brings the cause before the national court of justice: if the accused person is acquitted, the sentence of this court is without appeal; but if condemned, and the convicted party desire it, the cause is again tried by the national court of justice, increased by four members drawn from such courts of justice as the condemned party shall himself choose to select.

The accused party, both in the first instance, and in case of revision, may choose attorneys to defend his cause. The power and authority of an accused person are suspended from the very moment that the suit is instituted against him, except the charge is directed against a member of the legislative body or regency of state.

100. He who obeys the orders of an accused party, whe-

ther a magistrate, college or public functionary, with the exception of the two bodies above mentioned, renders himself guilty of high treason.

101. The syndicate does not exercise any power: it cannot cause any person to be arrested, unless authorized by the national court of justice; those cases only excepted where an authority, public functionary, individual or body of individuals, are apprehended in the fact, and at the very moment when ready to carry into execution a conspiracy framed by them against the safety of the state or against the constitution.

But, in this case, the motives for the arrest must be immediately communicated to the national court of justice, which takes cognizance of it, and either confirms the arrest or dismisses the accused.

The dispositions contained in the present article are not applicable to the legislative body, no more than to the regency of state.

102. The syndicate may accuse its own members.

103. The national court of justice has a right of superintendency over the syndicate and its members; and in case of misdemeanour, extortion, or any other offence in the exercise of their trust, as the producing false instruments, bribing witnesses, altering or neglecting any complaint framed, or means of defence, &c., the said national court of justice forms a tribunal of nine members chosen from the different departmental courts of justice, before which the cause is brought, at the instance of the court, and by attorneys appointed by it for this purpose.

104. The national court of justice resides in the same place as the regency of state.

105. In case of any doubt or difference arising as to the real sense of any article of the constitutional act, the college which is interested therein gives notice to the national court of justice: if this court is of opinion that the letter

of the constitution is not perfectly clear, it writes to the legislative body, as well as to the regency of state. These two bodies each appoint nine members, who, united to the court of justice itself, compose an assembly of twenty-seven persons. The members of this assembly take their seats according to seniority. The president of the national court presides over it: it is his duty clearly to explain the matter in dispute, and to pronounce the decision of the assembly according to the majority of votes.

If the assembly is of opinion that the difficulty cannot be removed by it, the proposition is referred, by the regency of state, to the decision of the active citizens.

106. As soon as the Batavian people shall have accepted the present constitution, and it shall have been proclaimed, the executive directory shall appoint seven members of the regency of state, and within a fortnight, and on a day appointed, shall convoke them in the place of its residence. These shall immediately choose their colleagues, and shall notify the result of their choice to the executive directory, in order that the said directory may convoke them with the least delay possible, and that the regency of state may be forthwith installed.

When the regency is formed, it must give notice thereof to the representative body, and to the executive directory. These two colleges shall be dissolved immediately after they have received this notification.

Oath of the Members of the legislative Body.

I solemnly promise that as a member of the legislative body, and in conformity with the constitutional act, I will assist with all my power in supporting the interests of the Batavian people, and in maintaining their rights, and that I will sincerely and zealously acquit myself of all the duties which under this relation are imposed upon me, without ever departing therefrom for any consideration whatever,

favour or disgrace, promise or present, or any other thing : I promise also that I will not in any manner concur, or take any part in any resolution or project which might tend to introduce hereditary dignities or swerve from the principles of a popular representative government.

Oath of the Members of the Regency of State.

I solemnly promise that as a member of the regency of state, and in conformity with the constitution, and with the authority which has been intrusted to me, I will assist with all my power in supporting the interests of the Batavian people, in defending their rights, their rank and dignity, in consolidating, maintaining and assuring the independence of the republic and the liberty of the citizens ; and that I will sincerely and zealously acquit myself of all the duties which under this relation are imposed upon me, without ever departing therefrom for any consideration whatever, favour or disgrace, promise or present, or any other thing ; and that I will never in any manner assist in forming and decreeing any project which might deviate from the principles of the constitution, tend to introduce hereditary dignities, or be contrary to a popular representative government ; and moreover, that if any enterprise of this kind come to my knowledge, I will oppose it, and strive to prevent it, by all the means which are intrusted to me.

CONSTITUTION OF 1801 MODIFIED.

THE EXECUTIVE POWER VESTED IN A GRAND PENSIONARY. ESTABLISHMENT OF THE KINGDOM OF HOLLAND UNDER LOUIS BONAPARTE.

Such was the constitution of 1801. It governed the Batavian republic until 1805, when it was, we will not say abolished, but simply modified by a new constitution, so that it might be still considered as the basis of the constitutional system of the republic. Instead, therefore, of giving the new act entire, it will be sufficient to present an analysis of such of its regulations as modified that of 1801; and this with the more reason as it continued in force but a very short time.

The new constitution was divided into 87 articles. Those from 1 to 9 are devoted to general regulations. In the following, the republic, as under the constitution of 1801, is divided into eight departments: the right of suffrage is made subject to the same regulations: the clergy of every profession are excluded from public employments: military persons are not allowed to vote except in their place of domicil, and this cannot be that of their garrison.

Articles 15 to 37 treat of the legislative body: the supreme power is vested in this assembly, and in the grand pensionary, a magistrate created by this constitution. The legislative body is composed of nineteen members who hold their seats for three years, and are nominated by the departmental administrations in the following proportion; seven for Holland, one for Zealand, one for Utrecht, and two for each of the other departments.

The deputies must be citizens born in one of the eight

departments, or in a colony of the state; they must be more than thirty years of age, must possess the right of suffrage, and have resided during the last six years in the department which returns them, except in their absence from it, they have been employed in the service of the republic: no two members can be related to each other within the fourth degree.

In each election the departmental administration nominates four persons; the grand pensionary reduces this number to two, and from these the departmental administration finally selects one. The session is opened by the pensionary.

The members vote without previous instructions from their departments, and are not accountable to them for their conduct.

The members of the departmental administrations, the secretaries of state, the members of the town councils, of the finances and courts of justice, cannot sit in the legislative body while they preserve their places.

The assembly discusses only the subjects which are proposed by the pensionary: it may approve or reject the laws proposed, but can make no alteration in them.

It resolves more especially on taxes, and on pardons granted in judicial sentences—a right also which, in the absence of the legislative body, is vested in the pensionary; but if he has occasion to exercise the said right, he is obliged to acquaint the legislative body therewith as soon as it meets.

Two sessions are held every year; but the pensionary may convoke an extraordinary session when he thinks proper. One third of the members are renewed annually: their pay is 3000 florins per annum. The members going out are re-eligible.

Articles 38 to 61 relate to the grand pensionary, who is charged with the executive power; and it is on this head

that the constitution of 1805 chiefly differs from that of 1801. This magistrate is chosen by a majority of the nineteen members forming the assembly: he holds his office five years; and is always re-eligible: he may at any time resign his functions, which are then, until a new appointment takes place, discharged by the president of the assembly.

The pensionary must be a Batavian citizen, must possess the right of suffrage, have been born in Batavia, and have resided there during the last six years: he cannot be related to his immediate predecessor within the fourth degree: absence in the service of the republic is no ground of exclusion.

The pensionary cannot, under any circumstances, exercise the legislative power; he can neither interfere with the administration of justice, nor have recourse to legal measures, except according to the usual forms of law.

He appoints the council of state, which he must consult on projects of law proposed to the legislative body.

He appoints the ministers secretaries of state, and in general all the public functionaries, except the members of the national court of justice.

All the acts of government are executed in the name of their High Mightinesses representing the Batavian people, are signed by the pensionary, and countersigned by the secretary-general of state.

The pensionary every year brings forward the budget of expenses, and is obliged to furnish the grounds of the same.

The last twenty-eight articles relate to matters of administration, and prescribe the oath to be taken by each member of the legislative body.

These are the chief articles of the constitution of 1805. It was entirely abolished by the treaty of the 24th May, 1806, concluded between France and the republic, and which next occurs in the series of constitutional acts.

TREATY

BETWEEN THE BATAVIAN REPUBLIC AND THE EMPEROR OF THE FRENCH, FOR ESTABLISHING THE KINGDOM OF HOLLAND.

MAY 24, 1806.

HIS imperial and royal majesty Napoleon, emperor of the French, and king of Italy, and the assembly of their High Mightinesses representing the Batavian republic, under the presidency of his excellency the grand pensionary, accompanied by the council of state, by the ministers and secretaries of state, taking into consideration,

1st. That from the general disposition of men's minds and the actual organization of Europe, a government without consistency, and without fixed permanency, cannot fulfil the object of its institution ;

2d. That the periodical renewal of the head of the state will be always a source of dissension in Holland, and abroad a constant subject of agitation and discord among the powers, friends or enemies of Holland ;

3d. That an hereditary government can alone guarantee the tranquil possession of all that is dear to the Dutch people, the free exercise of their religion, the preservation of their laws, their political independence, and civil liberty ;

4th. That their first interest is to secure a powerful protection, under the shelter of which they might freely exercise their industry, and maintain themselves in the possession of their territory, commerce and colonies ;

5th. That France is essentially interested in the happiness of the Dutch people, in the prosperity of the state, and stability of its institutions, as well in consideration of the northern frontiers of the empire, open and unprovided with

strong places, as in relation to the principles and interests of general policy:

Have named as ministers plenipotentiary: his majesty the emperor of the French and king of Italy, M. Charles Maurice Talleyrand, grand chamberlain, minister of foreign relations, grand cordon of the legion of honour, knight of the black and red eagle of Prussia, and of the order of Saint Hubert, &c.

And his excellency M. the grand chancellor pensionary, M.M. Charles Henry Verhuell, vice-admiral and minister of the marine of the Batavian republic, decorated with the grand eagle of the legion of honour; Isaac John Alexander Gogel, minister of the finances; John Van Styrum, member of the assembly of their high mightinesses; William VI, member of the council of state, and Gerard de Brantzen, minister plenipotentiary of the Batavian republic to his imperial and royal majesty, decorated with the grand eagle of the legion of honour; who, having exchanged their full powers, have agreed as follows:

Art. 1. His majesty the emperor of the French and king of Italy, as well for himself as for his heirs and successors for ever, guarantees to Holland the maintenance of its constitutional rights, its independence, the integrity of its possessions in the two worlds, its political, civil and religious liberty, as confirmed by the laws actually in force, and the abolition of all privileges relative to taxation.

2. On the formal demand made by their high mightinesses representing the Batavian republic, that the prince Louis Napoleon be named and crowned hereditary and constitutional king of Holland, his majesty assents to their wishes, and authorizes the prince Louis Napoleon to accept the said crown of Holland, to be possessed by him and his natural legitimate male descendants, in the order of primogeniture, and to the perpetual exclusion of women and their descendants.

In onsequence of this authority, the prince Louis Napoleon shall possess the said crown under the title of king, and with all the authority determined by the constitutional laws which the emperor Napoleon has guaranteed in the preceding article.

Nevertheless, it is resolved that the crowns of France and Holland shall never be united on the same head.

3. The domain of the crown comprehends: 1st. a palace at the Hague, intended for the residence of the royal family; 2d. the palace of Bois; 3d. the domain of Soestdick; 4th. a revenue in real property of 500,000 florins.

The law of the state assures to the king, moreover, an annual sum of 15,000,000 florins, payable monthly.

4. When the king is a minor, the regency belongs of right to the queen; and in her default, the emperor of the French, in his quality of perpetual head of the imperial family, appoints the regent of the kingdom. He chooses the regent from among the princes of the royal family, and in their default, from among the native citizens.

The king's minority terminates on the full attainment of his eighteenth year.

5. The queen's dowry shall be fixed by her contract of marriage. For this time, it is agreed that the said dowry shall be fixed at 250,000 florins, to be taken from the domain of the crown. This sum deducted, a moiety of the remaining revenues of the crown shall serve to defray the expenses of the young king's household, and the other half be appropriated to the expenses of the regency.

6. The king of Holland shall be in perpetuity a grand dignitary of the empire, under the title of constable: the functions of this dignity, however, shall be free to be performed, at the discretion of the emperor of the French, by a prince vice-constable, should he think proper to create such an officer.

7. The members of the family reigning in Holland, shall

remain personally subject to the regulations contained in the constitutional statute of the 30th March last, constituting the law of the imperial family of France.

8. The charges and employments of the state, except such as relate to the personal service of the king's household, can never be conferred on any other than natives.

9. The king's arms shall be the ancient arms of Holland, quartered with the imperial eagle of France, and surmounted by the royal crown.

10. There shall be immediately concluded between the contracting powers a treaty of commerce, in virtue of which the Dutch shall be at all times treated in the ports and territories of the French empire as the nation, the most particularly favoured. His majesty the emperor and king engages to use his influence with the Barbary powers for gaining the same respect to the Dutch flag, as is paid by them to that of his majesty the emperor of the French.

The ratifications of the present treaty shall be exchanged at Paris within the space of ten days.

PARIS, this 24th day of May, 1806.

PROCLAMATION

MADE IN HOLLAND, JUNE 9, 1806.

LOUIS Napoleon, by the grace of God and the constitutional laws of the state, King of Holland; to all those who these presents shall see, or shall hear read, greeting.

Be it known by the present proclamation, to all in general and to each in particular, that we have accepted, and do accept, the crown of Holland, conformably to the

wish of the country, to the constitutional laws, and to the treaty, mutually ratified, which has been this day presented to us by the deputies of the Dutch nation.

On our accession to the throne, it shall be our first care to watch over the interests of our people. We shall always be solicitous to give them constant and unremitted proofs of our love and attention : we will maintain the rights and liberties of our subjects, and unceasingly strive to promote their welfare.

The independence of the kingdom is guaranteed by the emperor our brother: the constitutional laws equally guarantee to every one his claims on the state, his personal freedom, and liberty of conscience. Conformably to this declaration, therefore, we have decreed and do decree as follows :

1. The ministers of marine and finance, appointed by this day's decree, shall enter on the exercise of their functions : the other ministers shall continue to discharge their respective duties until it be otherwise provided for.

2. All constituted authorities of whatever description, civil or military, shall continue to discharge their respective functions until it be otherwise ordered.

3. The constitutional laws of the state, the treaty concluded between France and Holland, with the present decree, shall be immediately, and in the most authentic manner, made public.

Given at Paris, this 5th day of June, in the year 1806, and of our reign the first.

(Signed)

LOUIS.

CONSTITUTIONAL LAWS.

§ 1. *General Regulations.*

1. THE constitutional laws actually in vigour, particularly the constitution of 1805, as well as the civil, political, and religious laws at present in force in the Batavian republic, and of which the exercise is confirmed by the provisions of the treaty concluded the 24th of May, of the present year, between His Majesty the emperor of the French, and king of Italy, and the Batavian republic, shall be preserved in full force, with the exception of such only as shall be expressly repealed by the present constitutional act.

2. The administration of the Dutch colonies is regulated by particular laws. The revenues and expenses of the colonies shall be considered as forming part of the revenues and expenses of the state.

3. The public debt is hereby guaranteed.

4. The Dutch language shall continue to be exclusively used in all laws, publications, ordinances, judgments, and public documents, without exception.

5. No alteration shall be made in the title or weight of the current coin, unless in virtue of a particular law.

6. The old flag of the State shall continue to be used.

7. The council of state shall be composed of thirteen members. The ministers shall have rank, seats, and deliberative voices, in the council of state.

§ 2. *Of Religion.*

1. The king and the law grant equal protection to all the modes of religion which are professed in the state. By their authority shall be regulated every thing that may be

considered necessary for the organization, protection, and exercise of all kinds of worship. The whole exercise of religion shall in all cases be performed within the walls of the churches of the different sects.

2. The king shall enjoy, in his palace, as well as in every other place, where he may fix his residence, the free and public exercise of his religion.

§ 3. *Of the King.*

5. The king possesses, exclusively, and without restriction, the entire exercise of the government, and of all the powers necessary to carry the laws into effect, and to make them respected. He nominates to all the places of trust, civil and military employments, which under the preceding laws, were in the appointment of the grand pensionary. He has the entire enjoyment of the pre-eminences and prerogatives heretofore attached to that dignity. The national coin shall be stamped with his effigy. Justice is administered in his name. He has the power of pardoning offences, and of remitting punishments ordered to be inflicted by courts of justice. This power, nevertheless, shall be only exercised, after an audience given to the members of the national court at a privy council.

2. At the king's demise, the guardianship of the minor king shall be always confided to the queen mother, and in her default, to such person as shall be appointed by the emperor of the French.

3. The regent shall be assisted by a council of native citizens, of which the constitution and powers shall be determined by a special law: the regent shall not be personally responsible for the acts of his administration.

4. The government of the colonies, and all that concerns their internal administration, are exclusively vested in the king.

5. The general administration of the kingdom is con-

fided to the immediate direction of four ministers appointed by the king, namely, a minister for foreign affairs, a minister for naval and military affairs, a minister of finance, and a minister of the interior.

§ 4. *Of the Law.*

1. The laws of Holland are made with the concurrence of the legislative body, composed of the assembly of their high mightinesses, and the king. The legislative body shall consist of thirty-eight members appointed for five years, and in the following proportion ; for the department of Holland 17 members, for Guelderland 4, Brabant 4, Friesland 3, Zealand 2, Groningen 2, Utrecht 2, Drenthe 1, Overysse 3. The number of their high mightinesses may be increased by law, in the event of an increase of territory.

2. For this time, in order to appoint the nineteen members, by whom the number of their high mightinesses, according to the preceding article, is to be completed, the assembly of their high mightinesses shall present to the king a list of two candidates for each vacant place. The departmental assembly of each department shall also present a double list of candidates. The king shall make his election from among the candidates proposed.

3. The present grand pensionary shall take the title of president of their high mightinesses, and in this quality shall continue in office for life. His successors shall be appointed in the form prescribed by the constitution of 1805*.

4. The legislative body shall elect a registrar by a majority of votes : he cannot be a member of the said body.

5. The legislative body shall hold two ordinary sessions

* Art. 39, conceived in these terms : the counsellor pensionary is elected by the assembly of their high mightinesses, and by a majority of the votes of the nineteen members. He holds his office for five years, and is always re-eligible.

annually: viz., from the 15th of April to the 1st of June; and from the 15th of November to the 15th of January. It may be convoked extraordinarily by the king. On the 15th of November, one fifth of the members composing the legislative body, and being the oldest of the same, shall vacate their seats. This shall take place, for the first time, on the 16th of November, 1807; and in this instance, it shall be decided by lot what members are to withdraw. The members going out shall be always re-eligible.

§ 5. *Of the Judicial Powers.*

1. The judicial institutions shall be preserved on the footing established by the constitution of 1805.

2. The king, with regard to the judicial power, shall exercise all the rights and authority attributed to the grand pensionary, by Art. 49, 51, 56, 79, 82, and 87, of the constitution of the year 1805.

3. Every thing that relates to the exercise of criminal justice in military affairs shall be arranged separately by a future law.

ESTABLISHMENT

OF THE KINGDOM OF THE NETHERLANDS.

THE new king of Holland, Louis Napoleon, soon perceived his brother's intentions to be incompatible with the happiness of his subjects. He abdicated the throne, therefore, on the 3d of July, 1810, in favour of his son: but a *senatus-consultum*, dated the 9th of June, following, united Holland to the French empire.

It would be useless to retrace the events which in 1813 and 1814 dissolved this empire, and detached from France the states which had been united to it. The prince of Orange was first received as sovereign of Holland; and he published a fundamental law for his dominions. The union of the Belgic provinces, and the creation of the kingdom of the Netherlands, rendered necessary some alterations. These were made by a commission appointed for the purpose, and the constitution actually in force, was finally adopted in 1815.

REPORT

PRESENTED TO THE KING BY THE COMMISSION CHARGED WITH RE-
VISING THE FUNDAMENTAL LAW OF THE UNITED NETHERLANDS.

SIRE,

The commission to whom you assigned the task of revising the fundamental law of the United Provinces, and of introducing therein the modifications called for by the increase of territory, the erection of the Netherlands into a kingdom, and the stipulations contained in the treaties of

London and Vienna, entered upon their work with all the zeal inspired by the importance of its object, and the desire of justifying your majesty's confidence.

You declared, Sire, to the notables assembled in the city of Amsterdam, last year, that you accepted the sovereignty on the express condition that a fundamental law should amply guarantee the liberty of persons, the security of property, in one word, all the civil rights which characterize a people really free.

It is in these words engraven in all hearts by gratitude, it is in the manners and habits of the people, in institutions proved by the experience of several centuries, and with a distrust too well justified by so many ephemeral constitutions, of speculative theories, that have been sought the principles of that first law, which is not a mere abstraction, distinguished for more or less ingenuity, but a law adapted to the circumstances of Holland, at the commencement of the nineteenth century.

It has not restored what time had rendered obsolete, but has revived every thing which might be beneficially preserved. It is in this spirit that it has re-established the provincial states, though under some modifications in their system of organization. In their relations with the general government, this organization was not always free from merited censure: these relations have ceased. But the provincial states, considered as administrators, had greatly contributed to the prosperity of the country, and accordingly, this administration has been restored to them. The fundamental law, in the same manner, has restored to the towns and rural districts, all the independence compatible with the general welfare. It has invested the sovereign authority with all the prerogatives necessary to make it respected at home and abroad. It has assigned the legislative power conjointly to the prince and the states-general elected by the provincial states, which are themselves elected by all

the inhabitants of the kingdom who have any interest in its prosperity.

In a like system of laws and well-ordered institutions, have the members of the commission belonging to the southern provinces recognized the bases of their old constitutions, the principles of their ancient liberty, the rules of their ancient independence; and it has not been difficult, Sire, so to modify this law as to render it common to two nations, which had been united by ties only severed for the common misfortune of themselves and of Europe, and which it is alike their wish, and the interest of Europe, to render indissoluble.

Confining ourselves to this task, and taking that law for the basis of our work which was conceived with liberal and conciliatory views, we have successively examined its general principles and particular dispositions.

We have endeavoured, Sire, to animate ourselves with your sentiments, and to impress on the constitution destined to govern your fine kingdom, that character of justice and general benevolence which shines so conspicuously in all your actions and sentiments.

We do not pretend to have foreseen every thing, nor to have regulated every thing. We have left a part to future experience, and instead of decisive and peremptory dispositions, we have frequently done nothing more than lay the foundation-stone, leaving it to your wisdom, enlightened by time, and other councils, to establish institutions which are rather indicated than fixed, and which will complete, alike without unnecessary delay, and without precipitation, the edifice of which we have traced the extent and laid the foundation.

In dividing the kingdom into provinces, we have preserved, with respect to the northern provinces, the division adopted by the first law, giving to each its ancient limits, slightly modified for their common interest.

The same motives have induced us to act differently with regard to the southern provinces, having only changed the names of the departments. (Art. 2.)

A period of twenty years has created between the inhabitants of each department, ties and relations which could not be destroyed without violating numerous interests, without giving rise to multiplied difficulties, at once embarrassing to the government, and useless and injurious to the governed.

We have placed the provinces of the kingdom in the order established before their separation, by the ordinances of Charles V.

The province of Luxemburg, which takes the title of a grand duchy, and replaces in your majesty's house, your German states, is an augmentation of the highest importance to the kingdom.

We have been informed, Sire, of the rights which family compacts had given, over the states of Nassau, to your youngest son: we have not overlooked the just claims of this prince to an indemnity, but we are of opinion that it belongs to the states-general to propose, whether by a grant of domain, or in any other manner, the measure which might best satisfy what equity requires, and the national gratitude prescribes.

We dare, Sire, respectfully to express a wish, that in concert with your allies, such regulations might be made, as shall prevent under any circumstances, the grand duchy of Luxemburg from ceasing to form part of the kingdom. This measure, which is to the interest of the state, appears to us also to be the interest of Europe.

All the guarantees which the first fundamental law gave to individual liberty and property, have been preserved: we have found few things to add thereto.

Every kind of arbitrary arrest is forbidden. (Art. 168.) Should the government, for weighty considerations, arrest

an individual, he must be brought before the judge whom the law appoints within three days.

No one can be withdrawn from this judge, under any pretence. (Art. 167.)

The iniquitous penalty of confiscation is abolished. (Art. 171.)

Every judgment in civil matters must have the motives which determined it, annexed to the same. (Art. 173.)

In criminal matters, the circumstances of the offence, and the law applied by the judge, must be expressed. (Art. 172.)

Both judgments must be pronounced in a public sitting. (Art. 174.)

No one can be deprived of his property, unless the public good requires it, and on condition of a just indemnity. (Art. 164.)

The abode of every subject of the king is inviolable. (Art. 170.)

The right of petition, suitably regulated, is confirmed by law. (Art. 161.)

No privilege with respect to taxation, is tolerated. (Art. 198.)

Every subject is admissible to all employments, without distinction of birth or religious belief. (Art. 11 and 192.)

In reserving the first functions of the state to natives born of parents settled in the kingdom (Art. 8.), the law admits to other offices, both natives of the country, and those who are naturalized therein.

This hospitable land will always afford protection and benevolence to those whom liberal laws and a paternal government may induce to settle in it, but the right of voting on its greatest interests, and of taking part therein, ought to belong to those only who have imbibed with their mothers' milk the love of their country.

The liberty of the press shall be subject to no other

shackles than the responsibility of the person who writes, prints or distributes. (Art. 227.)

We have placed among the first duties of government that of protecting public instruction, in order to diffuse amongst all classes the knowledge useful to all, and amongst the higher classes, that love of the sciences and letters which embellishes life, forms a part of national glory, and is not foreign to the prosperity, or security of the state. (Art. 226.)

Few countries in Europe have done so much as our provinces for the indigent classes, few have so many establishments where old age and infirmity find an asylum, and the young, gratuitous instruction. The lively interest which these monuments of the piety, christian charity and benevolence of our fathers, inspire in your majesty's bosom, serves for a guide to indicate the duty of our kings. (Art. 228.)

The most precious of all rights, entire liberty of conscience, is guaranteed as formally as it can be. (Art. 190.)

We dare believe, Sire, that these various enactments fulfil the condition which you so nobly imposed.

The towns, the rural communes, and the districts forming these communes, in their internal government, shall enjoy all the independence compatible with the general welfare.

The local authorities, in their respective jurisdictions, shall conduct themselves as good fathers of families; but these jurisdictions form a part of the great family, and ought not to be invested with a power which might turn to its prejudice. (Art. 155.)

The budgets of these authorities are subject to the approbation of the provincial states. (Art. 156.)

The government takes cognizance of the same, and makes with regard to them all necessary regulations- (Art. 159.)

It may suspend and annul all such acts of the local administrations as are contrary to the laws, or tend to prejudice the general interest. (Art. 155.)

The rural arrondissements shall have their ancient limits, those recently adopted, or limits wholly new: they shall take their old denomination, that which they at present bear, or a new one, according as circumstances and local interests might advise. The limits and mode of administration of the arrondissements and communes, as well urbane as rural, shall be regulated by decrees enacted by the king in council, with the advice of the provincial states, of the municipal regency, or of a commission composed of notable persons, well versed in the concerns of their district, and themselves interested in its welfare (Arts. 132 and 154).

We have reminded your majesty of all the good which has accrued to this country from the administration of the provincial states; and this, henceforward disengaged from all participation in the government, will be still more useful: regretted at the same time in the northern and southern provinces, in which numerous institutions, public works of great importance, and a constantly increasing prosperity, attested their beneficial influence: preferred to every other kind of administration by very enlightened administrators in a country of which all the provinces did not enjoy a similar government, it will prove to your majesty's crown an enlightened agent, so much the more proper to make the laws esteemed and respected, as it will inspire more esteem and confidence. Those fatal maxims, Sire, are far from your heart, which separate the interests of the prince from those of his people, and overlook the strength and happiness which result from their constant and intimate union.

The provincial states will bear their own wants, and the wishes of your subjects, to the foot of the throne. (Art. 151.)

Charged with every thing that concerns the internal eco-

mony of the province, they frame, subject to the king's approbation, the letters, ordinances, and regulations, which they think necessary. (Art. 146.)

They share, according to fixed rules, the administration of the waters, bridges and causeways, with a special direction, which received from the first constitutional law, on account of its importance, a constitutional character that we have preserved to it. (Arts. 215, 225.)

No branch of provincial administration ought to be foreign to the states.

But as it is of importance that the number of members composing the said states should be somewhat considerable, they cannot be constantly in session. To exercise, therefore, that part of their authority which imposes duties at every hour, and requires attention at all moments, they appoint permanent deputations formed of their own members, and obliged to render an account to the states of their conduct. (Art. 153.)

The states and deputations are under the presidency of a commission appointed by the king, who watches over the interests of the province and of the government, as well as over the execution of the laws. (Art. 137.)

Through him the supreme chief of the administration will be regularly informed of every thing worthy of his attention: he will learn from him the motives for the regulations of which the object might be mistaken. This commissioner is intended as a useful medium between the king's ministers and the provincial states.

The first fundamental law did not determine the composition of the states: this has been since done by regulations made in every province, which have received the sanction of his majesty. These regulations, while they call to mind the ancient institutions of Holland, contain nothing contrary to those of Belgium.

We have thought it necessary to insert the elements of

this composition in the fundamental law of the kingdom. (Art. 129.) The nobility, who may be formed or not into equestrian bodies, the towns and country districts participating in the formation of the states in a proportion which may vary, and actually does vary considerably between the different provinces (Art. 131.); the principle shall be alone fixed and uniform. Every thing else is left to be arranged according to local circumstances, and to receive such modifications as your majesty, instructed by the lessons of experience, shall conceive necessary. Happy the nation that in giving itself a constitution, has to precipitate nothing, to hazard nothing—that can with confidence leave to its king the care of completing, and bringing to perfection, its constitutive laws. But we have reflected that after a certain time, it would be expedient to put a period to the desire of amelioration, that the permanency of what is acknowledged good, should be preferred to the vague hope of perfection. We propose, therefore, at the end of ten years, to regard as definitive, and as forming part of the fundamental law, the statutes which shall have emanated from, or received the sanction of your majesty, relative to the right of electing the different colleges, and to the right of sitting in the same—in other words, to the exercise of political rights. (Art. 7.)

To the provincial states, as under the former law, the project which we now submit to your majesty, assigns the election of the members of the states-general.

An electoral body composed of members elected, either directly or indirectly, by the nation, being already formed, it became a superfluous task to organize another: besides, this mode partakes of the general system of the constitution, which makes all powers emanate one from another, going down, without exposure to the inconveniences of popular elections, to the classes which only bear a trifling part in the burdens of the state, but which, nevertheless,

having some interests at stake, have a right to be represented. (Arts. 133, 134.)

The number of deputies to be returned by each province to the states-general, could not be determined upon by an unanimous vote.

Several members were of opinion that the basis, at once the most just, the most simple, and most sure, was the population of each province. Plausible reasons and numerous examples were not wanting to the support of this opinion; but these reasons have been combated, while the justice of applying the examples cited to a union of these provinces, has been disputed. It has been urged that the colonies which acknowledged the northern provinces for their mother country, the importance of their commerce, and the many millions of inhabitants subject to the laws of the metropolis, forbade the adoption of this basis; that the only means of perfectly and permanently establishing an intimate and sincere union between the two countries, was to give each an equal share in the national representation. The majority ranged themselves on the side of this opinion: no change has been made in the actual number of deputies returned by each of the northern provinces. That of the southern provinces has been settled in an equitable manner; special regard being paid to their population, and to the proportional number of deputies by whom they have been already represented. (Art. 79.)

But there is one part of the states-general which we were of opinion could not be subjected to a periodical election. The great augmentation which the state has received, the rank which it has assumed among the nations of Europe, the diversity of the elements composing it, the interests still more complicated which influence it, imposed upon us the duty of not disdaining the lessons of experience.

We were of opinion that to prevent precipitation in the national councils, to oppose in times of difficulty a mound

to the passions, to surround the throne with a rampart against which factions might be broken and dissolved, to afford the nation complete security against all usurpation on the part of the agents of authority, it was necessary, after the example of powerful monarchies, and flourishing republics, to divide the representatives of the kingdom into two chambers. In effecting this division we have not adopted foreign institutions, which at variance with those of our own country, might not readily fall in and harmonize with them, but we have been governed by the same spirit that led us to adopt the division itself.

Especially created to prevent what error or passion might suggest, this part of the states-general is not invested with the right of making propositions to the king, but can adopt or reject such only as are laid before it.

Wisdom and prudence are the qualities chiefly desirable in its members ; and the constitutional project accordingly requires them to be at least forty years of age. They would not afford all the security to be expected from their wisdom, if they had not a great interest in the general welfare ; and they can, therefore, be only chosen from among persons the most distinguished for their services, birth, and fortune. (Art. 80.)

There are few things which men defend more earnestly than their personal consideration, the remembrance, and the reward of their services. Those who command respect by a name which their ancestors have rendered illustrious by serving their country, must be attached to that country : the possessors of a great fortune consolidated in property lent to the state, or usefully employed in supporting the commerce of the nation, will carefully guard against any source of public wealth being obstructed or drained.

They would not be sufficiently independent, if they were removeable : we propose, therefore, to appoint them for

life. The right of appointment, as is alike required by the spirit of the monarchy, and called for by the interest of the nation, is vested in the king. This prerogative will give the sovereign an influence over the higher classes of society which cannot but prove beneficial to all.

To reconcile our institutions to the spirit of a mixed monarchy, has been the constant rule of our conduct, and the invariable guide of our actions.

The king proposes to the chamber elected by the provincial states, the projects of laws which have been discussed in his council of state. (Art. 106.) This chamber examines the said projects, and when it has passed them, sends them to the other chamber, in which a similar examination takes place. (Art. 109.)

The chamber of which the members are appointed for life receives and discusses such propositions as the other chamber thinks proper to lay before the king, but it can never make these propositions itself. (Art. 114, 115.)

If the chamber adopts the proposition, it transmits it to the king, who grants or refuses his sanction. (Art. 116.)

By not adopting it, this chamber will most commonly only spare the king the pain of exercising a necessary and indispensable right, but which, too often repeated, might tend to lessen that mutual confidence which is no less useful to princes than advantageous to nations.

In all cases the law is the result of the assent of the king and of the two chambers. (Art. 119.)

In most of our provinces, and especially in those of the north, a large proportion of the inhabitants, from the very nature of the government, were accustomed to take part in the management of affairs, and this greatly contributed to the preservation of that public spirit on which representative governments so mainly depend. The government is much more stable, and is more readily obeyed, when it makes known to the nation the motives for its resolu-

tions, the end of the sacrifices which it imposes, and of the efforts which it requires.

Recent examples prove what vast resources flow from the rational and temperate adherence of a whole people to the great measures adopted by their government.

In order to preserve this advantage, it appeared to us necessary to render the sittings of the second chamber of the states-general, public ; confining however this publicity within the bounds necessary to prevent abuses, and avert every kind of danger. (Art. 108.)

In order to explain the motives for the laws proposed, to make the views of government known and appreciated, to facilitate useful modifications, the heads of the departments of general administration shall have admission to both chambers of the states-general : but the power thus granted them does not confer the right of concurring by their vote in the resolutions taken. (Art. 91.)

We have inserted in the fundamental law certain clauses on the forms of deliberating, which may appear nothing more than rules of order : they derive the importance we attach to them, from the advantage they afford of multiplying and facilitating the relations between the members elected by the different provinces, of making known to all, the motives which give rise to the propositions brought forward ; and the considerations, even the most delicate, which may lead to their adoption or rejection. (Arts. 107, 111.)

It is also with the design of keeping up perfect harmony, that we have subjected to certain forms the relations of the two chambers with each other, and their intercourse with the government. (Arts. 109, 110, 111, 112, 115, 116, 117, and 118.)

We have no need, Sire, to assign the motives which have induced us to insert in the fundamental law, the formulæ of various oaths : Your Majesty reigns over a people who

hold the observance of an oath in religious veneration, who do not lightly contract it, and who scrupulously adhere to what they have sworn to observe.

With regard to the organization of the judicial power, the first fundamental law only laid down certain bases, and these bases, while they approach very near the old laws of Holland, do not differ essentially from the former legislation of Belgium: we have preserved them.

In civil matters, the administration of justice, intrusted to the provincial courts, and civil tribunals, does not leave the judges strangers to those under their jurisdiction. (Art. 184.)

A tribunal of appeal for one or more provinces is established. (Art. 182.)

There is instituted also a high court, superior to these tribunals, charged with regulating their acts, and to which the law, when it organizes the whole system of judicial order, shall be free to assign more extensive powers. (Art. 180.)

In criminal matters, the prosecution and punishment of offences are confided, within a stated jurisdiction, to the magistrates already invested with the cognizance of civil causes; thus tempering, by this two-fold charge, the habits of severity contracted by the daily exercise of the right of punishing. (Art. 183.)

A high court martial, composed of military men and lawyers, is charged with revising the judgments of the councils of war, to which, from many motives, the cognizance of all offences committed by military persons is assigned. (Art. 188.)

The same civil and penal code, the same laws on commerce, and on the judicial organization, shall be common to the whole kingdom. (Art. 163.)

The judges are independent, and receive their salaries, as fixed by law, from the public treasury: they are ap-

pointed by the king, the greater part for life, on the triple presentation of the states of the province, or the second chamber of the states-general. (Arts. 176, 182, and 186.) These, Sire, are the bases of a system of laws, which brought to maturity in your council, and submitted to the sanction of the states-general, will prove a fresh benefit conferred on your people.

We have in like manner adopted all the principles laid down by the first law for the defence of the state.

A permanent army will be, as it were, the advanced guard of the nation. (Art. 204.)

A militia, wisely organized, will be always ready to fly to the defence of their country. (Arts. 206, 212.)

The nation, wholly comprised in the communal guards, will defend in a body, should it prove necessary, its independence and liberty. (Art. 213.)

Some legal regulations, recently adopted for the militia, have appeared to us proper to form part of the fundamental law, since they guarantee those services to the state which it has a right to claim, and to families fixed invariable rules, which at the same time secure them from any arbitrary or inconsiderate abuse of power.

In speaking of the sacred duty of defending the country, we have recalled two celebrated periods of our history, the pacification of Ghent, which preceded the unfortunate separation of the seventeen provinces, and the treaty of union of Utrecht, the foundation of the national independence, and the source of so much glory and prosperity. (Art. 203.)

In future ages, Sire, our posterity will recur, with becoming pride, to those memorable days in which the Dutch and Belgians, not yet indeed formed into one nation, but already united in the bonds of esteem and fraternity, rivalled the bravest on the banks of the Sambre, and on the field of Waterloo, under the standard of your gallant

son—those days, when worthy of combating under a Nassau, they gained, with the esteem of your allies, no ordinary share of glory and renown—pledges of the intrepidity with which they will always defend their country, their king, and a social compact formed under such happy auspices.

The independence of a nation worthy of being free, governed by a family in which prudence and valour are inherited from father to son, will be respected by its neighbours.

The princes of your house will exercise with prudence the right of making war and peace (Art. 57,) inseparable from a well-constituted monarchy. We have not limited this right ; but we cannot withhold from your majesty that in treating of the prerogatives of the crown, we have never forgotten how much you have at heart the liberty and rights of the nation.

We are of opinion that the project of fundamental law gives to the crown all the power that the spirit of monarchical government, the extent of territory, and the necessity for an active and efficient protection over all rights and all interests, can render desirable, and that it traces out in a becoming manner the limits which your majesty would himself prescribe to the authority of a monarch who, in the course of events, might not resemble you.

The obligations and reciprocal promises of the king and his people will be cemented by solemn oaths. (Arts. 52 and 56.)

The inauguration of the king will be attended with every thing that can give to this great solemnity the character which belongs to it. Conformably to ancient usages, it will be in a public place, and in the presence of his subjects, that the king will receive the oath of fidelity from the nation: that he will himself swear to observe the fundamental law, to have at heart the happiness of his people, to

mitate the founder of the national independence, and the first king of the monarchy.

The transmission of the crown in this illustrious family, as established by the first fundamental law, has received the sanction of the great powers in the conventions which have given peace to Europe. In introducing the order of this transmission into the new project, we have added such developments as are calculated to prevent, under all circumstances, the doubts and interpretations which have sometimes cost nations so dear. (Arts. 13, 29.)

Several religious communities have been induced to settle in Holland by the mildness of its laws, and the protection afforded them by the government. This protection will remain the same. (Art. 171.)

The law might here have stopped, and left to Your Majesty the care of evincing the interest you take in every thing that concerns the ministers of religion: but it appeared to us that the fundamental law might impose on your successors the duty of taking your noble sentiments for the rule of their conduct (Art. 193,) and might contain, moreover, the assurance that no religious sect should ever be at liberty to disturb the freedom of other sects, all being equally protected by the laws of the state. (Art. 196.)

We are of opinion, Sire, that a constitutional law which consecrates all legitimate rights, and of which the principles have been sought in the manners and character of the nation, might hope for a longer duration than if founded only on vain and speculative theories. But time modifies and changes every thing. And a scheme of revision, not indeed anticipated, and fixed to take place at any stated time, but held possible, if the necessity for it should be imperiously felt, has appeared to us useful, provided it could be resorted to under such forms as might prevent, or check, any attempt at innovation. (Arts. 229, 233.)

The fundamental law of the United Provinces reserved to the commission which framed it, the right of interpreting its regulations during the three first years. We are of opinion, that since the law necessarily expresses the unanimous sentiment of the king and the two chambers of the states-general, to the law ought to be left that interpretation which is, in fact, nothing else than the sound application of the articles of the constitutional act.

For carrying into effect, with prudent circumspection, and without the shock of conflicting interests, the changes which the fundamental law requires, it assigns to your majesty, by organic regulations, the care of successively introducing the various institutions which it has created or re-established, of appointing for the first time the members of the second chamber of the states-general, and all the magistrates; whatever in other respects may be the mode of appointment adopted. (Art. add. 1.)

The fundamental law maintains in vigour all the laws which govern the different parts of the kingdom, until they are superseded by other well-meditated laws; and thus is afforded it the best support, the most powerful auxiliary it can have, your majesty's wisdom and love of your subjects. (Art. add. 2.)

May this fundamental law, Sire, when corrected by your enlightened understanding, and ameliorated by time, contribute to the prosperity of the kingdom, add to the national welfare, and tend to cherish that mutual attachment between the prince and his subjects, which is productive of such happy consequences, which is a prerogative only enjoyed by good princes, and which, under your glorious race, promises us the fairest destinies.

Done at the Hague, this 13th day of July, 1815.

Gysbert Karel; Van-Hogendorp; W. Vantuyll Van-Se-rooskerken; Van-Zuylen; the baron d' Anéthan, by pro-

curation from M. Raepsaet ; B. J. Holvoet ; J. H. Mollerus ; H. W. Van-Aylva ; Gendebien ; A. J. le Lampsins ; Wilh. Queysen ; the count de Thiennes Lombize ; the count de Méan ; O. Leclerq ; Théod. Dotrenge ; the count de Merode Westerloo ; B. J. Holvoet ; J. V. D. Dussen ; Cornelis Theodorus Elout ; F. Dubois ; J. E. N. Van-Lynden ; C. F. Van-Maanen ; E. J. Alberda ; F. Van Der Duyn Van Maasdam ; Deconinck ; count d'Arschot ; J. D. Meyer, secretary.

FUNDAMENTAL LAW

OF THE KINGDOM OF THE NETHERLANDS.

CHAPTER I.—*Of the Kingdom and its Inhabitants.*

ART. 1. The kingdom of the Netherlands, of which the limits are fixed by the treaty concluded between the powers of Europe assembled at the congress of Vienna, and signed on the 9th of June, 1815, is composed of the following provinces :

North Brabant, South Brabant, Limburg, Guelderland, Liege, East Flanders, West Flanders, Hainault, Holland, Zealand, Namur, Antwerp, Utrecht, Friesland, Overijssel, Groningen, Drenthe.

The grand duchy of Luxemburg, with the limits fixed by the treaty of Vienna, being placed under the same sovereignty as the kingdom of the Netherlands, shall be governed by the same fundamental law, saving its relations with the German confederacy.

2. The provinces of Guelderland, Holland, Zealand, Utrecht, Friesland, Overijssel, Groningen and Drenthe shall preserve their present limits.

North Brabant comprises the territory of the province which now bears the name of Brabant, with the exception of the part which belonged to the department of la Meuse Inférieure.

The provinces of South Brabant (department of la Dyle), of East Flanders (department of l'Escaút), of West Flanders (department of la Lys), of Hainault (department of Jemmapes), and of Antwerp (department des Deux-Nèthes), shall preserve the present boundaries of those departments.

The province of Limburg contains the département of la Meuse Inférieure entire, and such parts of the département of la Roër as were ceded to the kingdom by the treaty of Vienna.

The province of Liege comprises the département of l' Ourthe, with the exception of the part separated from it by the same treaty.

The province of Namur contains that part of the département of the Sambre et Meuse which does not belong to the grand duchy of Luxemburg.

The limits of the grand duchy of Luxemburg remain as fixed by the treaty of Vienna.

3. Such alterations in the boundaries of the provinces as may be deemed expedient or necessary, shall be carried into effect by law, due regard being paid, as well to the interest of the inhabitants, as to the convenience of the general administration.

4. Every individual within the territories of the kingdom, whether a denizen or foreigner, enjoys the protection granted to persons and property.

5. The exercise of civil rights is determined by law.

6. The right of voting in the towns and country districts, as well as the qualifications required for admission into the provincial and local administrations, shall be regulated by provincial and local statutes.

7. The dispositions contained in these statutes, relative to the rights and eligibility mentioned in the last article, such as the same shall be in force at the end of the tenth year following the promulgation of the fundamental law, shall be considered to form part of the said fundamental law.

8. No one can be appointed a member of the states-general, head or member of the departments of general administration, counsellor of state, king's commissioner in the provinces, or member of the high court, unless he is an inhabitant of the Netherlands, and born either in

the kingdom, or in the colonies, of parents settled in the same.

A person born abroad during the absence of his parents from their native country, whether such absence be temporary or in the service of the public, enjoys the same rights.

9. The natives of the country, or those who are reputed such, whether by a fiction of law, or by naturalization, are without distinction, eligible to all other functions.

10. During one year after the promulgation of the present fundamental law, the king shall be at liberty to grant persons born abroad, and settled in the kingdom, the rights of native subjects, and admission to all employments whatsoever.

11. Every person is equally admissible to employments, without distinction of rank or birth, saving the regulations which the provinces, in pursuance of Chapter IV. of the fundamental law, may think proper to frame, relative to the composition of the provincial states.

CHAPTER II.—*Of the King.*

§ 1.—*Of the Succession to the Throne.*

Art. 12. The crown of the kingdom of the Netherlands is, and remains, assigned to his majesty William Frederic, prince of Orange Nassau, and hereditarily to his legitimate descendants, conformably to the following regulations.

13. The legitimate descendants of the reigning king are the children born, and to be born, of his marriage with her majesty Frederica Louisa Wilhelmina, princess of Prussia, and generally the descendants sprung from a marriage contracted or consented to by the king, in concurrence with the states-general.

14. The crown is hereditary by right of primogeniture,

so that the eldest son of the king, or his descendant, reckoning from male to male, succeeds by representation.

15. In default of descendant, male by male, of the eldest son, the crown passes to his brothers, or to their descendants, male by male, and equally according to the right of primogeniture and representation.

16. In total default of descendants, male by male, of the house of Orange Nassau, the daughters of the king are called to the throne in the order of primogeniture.

17. If the king leave no daughters, the crown devolves to the family of the eldest princess of the masculine line, eldest descendant of the last king, and in case of her previous decease, she is represented by her descendants.

18. If there exist no descendant in line masculine of the last king, the line feminine eldest descendant of this king succeeds, the masculine branch being always preferred to the feminine, and the eldest to the youngest, and in each branch, the male to the female, and the eldest to the youngest.

19. If the king die without leaving any posterity, and there are no descendants, male by male, of the house of Orange Nassau, the crown devolves to the nearest relation of the last king, of the royal family; and in case of his previous decease, to his descendants.

20. When a woman has caused the crown to pass into another family, this family succeeds to all the rights of the family actually reigning, and the preceding articles are applicable to it, so that its descendants, from male to male, succeed to the exclusion of women or their feminine descendants, and that no other line can be called to the throne as long as this family is not entirely extinct.

21. A princess who has married without the consent of the states-general, has no right to the throne. A queen abdicates by contracting marriage without the consent of the states-general.

22. In default of posterity of the king William Frederick of Orange Nassau, the reigning sovereign, the crown devolves to his sister, the princess Frederica Louisa Wilhelmina of Orange, dowager of the late Charles George Augustus, hereditary prince of Brunswick Lunenburg, or to her legitimate descendants, sprung from a marriage contracted in conformance to the dispositions of Art. 13 above.

23. In default of legitimate descendants of this princess, the crown passes to the legitimate male descendants of the princess Caroline of Orange, sister of the deceased prince William, and widow of the late prince of Nassau Weilburgh, always by right of primogeniture and representation.

24. If particular circumstances should render necessary any change in the order of succession to the throne, the king shall be at liberty to present a project of law on the subject to the states-general, in a convocation of both chambers: and on this occasion the second chamber shall be raised to double its usual number.

25. The king who has no heir liable to be called to the throne by the fundamental law, proposes one to the states-general, assembled and composed as laid down in the preceding article.

26. If the proposition is assented to by the states-general, the king makes known his successor to the nation according to the forms prescribed for the promulgation of laws, and causes solemn proclamation to be made of the same.

27. If a successor to the king has not been appointed before his death, the states-general, assembled and composed as laid down in Art. 24, appoint and solemnly proclaim him.

28. In the cases mentioned in Articles 22, 23, 24, and 27, the succession remains settled as laid down in Art. 13, 14, 15, 16, 17, 18, 19, and 20.

29. The king of the Netherlands cannot wear another crown; nor can the seat of government, under any circumstances, be placed out of the kingdom.

§ 2. *Of the Revenues of the Crown.*

30. The king enjoys an annual revenue of 2,400,000 florins payable from the public treasury.

31. Should the king William Frederick of Orange Nassau now reigning, make a proposition to that effect, he may be assigned by law, and in full property, domains to the amount of 500,000 florins income, which shall be deducted from the revenues fixed in the preceding article.

32. Summer and winter palaces, suitably furnished, are appropriated for the residence of the king, with an annual sum which shall not exceed 100,000 florins for the keeping such palaces in repair.

33. The king, the princes and princesses of his family, are exempt from all personal and direct taxes: they are not exempt from land and house taxes, except for the places of residence which have been assigned to them: they are subject to all other impositions.

34. The king may make what regulations he thinks proper for the government of his family.

35. A queen dowager enjoys, during her widowhood, an annual income of 150,000 florins, payable from the public treasury.

36. The king's eldest son, or his male descendant, presumptive heir to the throne, is the first subject of the king, and bears the title of prince of Orange.

37. The prince of Orange, in this character, when he has completed his eighteenth year, enjoys on the public treasury an annual income of 100,000 florins, which shall be increased to 200,000 florins, when, conformably to Art. 16, he shall have contracted marriage.

§ 3. *Of the Guardianship of the King.*

38. The king is of age when he has attained his eighteenth year complete.

39. In case of a minority, the king is under the guardianship of certain members of the royal house, and of other distinguished persons who are natives of the kingdom.

40. The said guardianship is settled beforehand by the reigning king, in concert with the states-general and the united chambers.

41. If the guardianship has not been settled by the predecessor of the young king, belongs to the states-general, the chambers united, and if possible, in concert with some near relations of the prince, to make due provision for the same.

42. Every guardian, before he enters on the duties of his office, in the assembly of the states-general, and before the united chambers, takes the following oath to the president:
“ I swear fidelity to the king: I swear religiously to discharge all the duties which his guardianship imposes on me, and particularly to inspire him with attachment to the fundamental law of his kingdom, and affection for his people. So help me, God.”

§ 4. *Of the Regency.*

43. During the king's minority, the royal power is exercised by a regent: he is appointed beforehand by the reigning king, in concert with the states-general, the chambers united. The succession to the regency, during the king's minority, may be regulated in the same manner.

44. If during the life of the minor king's predecessor, no regent has been appointed, the right of appointing him is vested in the states-general, assembled and composed as laid down in Art. 24.

If the succession to the regency has not been settled, this

may be done by the regent, in concert with the states-general composed as above.

45. The regent, in an assembly of the states-general, and before the united chambers, takes the following oath to the president: "I swear obedience to the king: I swear that
" in the exercise of the royal power, during the king's minority (while the king remains incapable of reigning), I
" will observe and maintain the fundamental law of the
" kingdom, and that on no occasion, and on no pretext
" whatever, will I deviate from the same myself, or permit
" others to deviate from it. I swear, moreover, to defend
" and preserve, to the utmost of my power, the independence of the kingdom and the integrity of its territory,
" as well as public and individual liberty,—to maintain the
" rights of all and each of the king's subjects, and to employ for the preservation of the general and individual
" welfare, as a good and faithful regent ought, all the
" means which the laws place at my disposal. So help
" me, God."

46. The regal power is also exercised by a regent when the king is incapable of reigning.

The council of state, composed of its ordinary members, and of the heads of the ministerial departments, after having verified the existence of the fact by a strict inquiry, convokes the states-general (the second chamber being double its usual numbers) in order to provide for the same.

The members of the states-general who are assembled at the seat of government on the twenty-first day after due convocation of the said states, open the session.

47. Should it be necessary to provide for the guardianship of the king's person, under the circumstances mentioned in the preceding article, the principles laid down in Art. 39 and 41, respecting the guardianship of a minor king are followed.

48. If, on the occurrence of such a case, the prince of Orange has attained the full age of eighteen years, he is regent of right.

49. If the prince of Orange has not completed his eighteenth year, and under the circumstances mentioned in Art. 27 and 44, the council of state, composed as in Art. 46, exercises the royal authority until it be otherwise provided for by the states-general.

The members of this council take the following oath to the president, and the president the same oath before the assembly: " I swear, as member (president) of the council
" of state, in the exercise of the royal authority, to con-
" tribute to the maintenance and observance of the funda-
" mental law of the kingdom until it be otherwise provided
" for by the states-general. So help me, God."

50. The act which settles the regency shall fix the sum to be levied on the revenues of the crown for defraying the expenses of the same. This sum shall not be changed during the continuance of the regency.

51. If the king has not proposed to the states-general a successor to the throne (Art. 25); if he has not, in concert with the said states, settled the guardianship of the minor king (Art. 40); if he has not designated, in conjunction with them, the regent of the kingdom (Art. 43); the states-general make a solemn declaration of the existing case, and provide for it as prescribed in Art. 27, 41, and 44.

§ 5. *Of the Inauguration of the King.*

52. The king, when he assumes the reins of government, is solemnly inaugurated in a public sitting of the states-general, the chambers united: this sitting is held in the open air.

In time of peace, the inauguration takes place alternately

at Amsterdam and in a city of the southern provinces, chosen by the king.

53. In this public sitting, after the whole fundamental law has been read before the king, he takes the following oath :

“ I swear to the people of the Netherlands, to observe
“ and maintain the fundamental law of the kingdom, and
“ that on no occasion, and under no pretext whatever, will
“ I deviate therefrom, or suffer others to deviate from it.
“ I swear, moreover, to defend and preserve with all my
“ power the independence of the kingdom, and the integrity of its territory, as well as public and individual
“ liberty,—to maintain the rights of all and each of my
“ subjects, to employ for the preservation and increase of
“ the general and individual prosperity, as is the duty of a
“ good king, all the means which the laws place at my
“ disposal. So help me, God.”

54. When this oath has been taken, the king is inaugurated in the same sitting by the states-general.

The president, to this effect, makes the solemn declaration which follows, and which he, and all the members confirm by their individual oaths :

“ We swear, in the name of the people of the Netherlands, that in virtue of the fundamental law of this
“ state, we receive and inaugurate you as king ; that we
“ will maintain the rights of your crown ; that we will be
“ obedient and faithful to you in the defence of your person
“ and your royal dignity ; and we swear to do every thing
“ that good and faithful states-general are bound to do.
“ So help us, God.”

55. The king gives notice of his inauguration to the provincial states, which render him homage in the following terms :

“ We swear that we will be faithful to you, as legitimate

“ king of the Netherlands, in the defence of your person
“ and royal dignity ; and that, in conformity with the fun-
“ damental law, we will obey the ordinances which shall
“ be transmitted to us from you ; that in the execution
“ of the said ordinances we will give aid and assistance
“ to your servants and counsellors ; and, moreover, that
“ we will do what faithful subjects are bound to do. So
“ help us, God.”

A solemn deputation of members from each assembly is charged with bearing this declaration to the king.

§ 6. *Of the Royal Prerogative.*

56. The king has the direction of foreign affairs, he appoints and recalls ministers and consuls.

57. The king declares war and makes peace : he gives notice thereof to the two chambers of the states-general, and joins thereto such communications as he thinks compatible with the interests and safety of the state.

58. To the king belongs the right of concluding and ratifying all other treaties and conventions : he gives notice thereof to the two chambers of the states-general as soon as he thinks the interest and security of the state permit it.

If treaties concluded in time of peace, contain a cession or exchange of a part of the territory of the kingdom or of its possessions in other parts of the world, such treaties are not ratified by the king until they have been approved by the states-general.

59. The king disposes of the land and naval forces : he appoints and dismisses the officers, and may grant a pension on their discharge when circumstances require it.

60. The supreme direction of the colonies and possessions of the kingdom in other parts of the world, belongs exclusively to the king.

61. The king has the supreme direction of the finances :

he regulates and fixes the salaries of the colleges and functionaries who are paid from the public treasury. These salaries are carried to the budget of national expenses.

The pay of the functionaries belonging to the judicial order is determined by law.

62. The king has a right to coin money, and to stamp it with his effigy.

63. The king confers nobility: those whom he ennobles present their diplomas to the states of their provinces: they share thenceforward the prerogatives attached to nobility, and especially the right of being enrolled in the equestrian body, provided they possess the requisite qualifications.

64. Every order of knighthood is instituted by a law, on a proposition from the king.

65. Foreign orders which do not impose any obligation may be accepted by the king, and with his consent, by the princes of his family.

No foreign order whatever can be accepted by another subject of the king without his express permission.

66. This permission is equally requisite for the acceptance of all foreign titles, dignities or trusts.

For the future, letters of nobility conferred by a foreign prince, cannot be accepted by any subject of the king.

67. The king has the right of granting pardon, after having taken the opinion of the high court of the kingdom.

68. Besides the right of dispensation in the cases determined by law, the king, when urgent circumstances require it, and the states-general are not assembled, grants dispensations to individuals in their private concerns and on their petition, after having heard the council of state: in matters of justice these dispensations are not granted until the king has first taken the opinion of the high court, and in other matters, that of the departments of administration interested in the same.

The king communicates to the states-general all the dispensations granted by him in the interval between one session and another.

69. The king decides all disputes which arise between two or more provinces, if they cannot be terminated amicably.

70. The king presents to the states-general projects of law, and lays before them such other propositions as he thinks proper.

He sanctions or rejects the propositions made to him by the states-general.

§ 7. *Of the Council of State and the Ministerial Departments.*

71. There is a council of state composed of twenty-four members at the most, chosen as far as possible, from all the provinces of the kingdom. The king appoints and dismisses them at will. The king presides over the council of state, and appoints, if he thinks proper, a secretary of state to officiate as vice-president.

72. The prince of Orange is of right a member of the council of state, and takes his seat therein when he has attained his eighteenth year complete.

The other princes of the royal family, on their coming of age, may be summoned there by the king. They are not comprised in the fixed number of ordinary members.

73. The king lays before the council of state the propositions which he makes to the states-general, and those addressed to him by them, as well as all general measures affecting the internal administration of the kingdom, and its possessions in other parts of the world.

In the preamble to laws and royal regulations, it is necessary to mention that the council of state has been heard.

The king, moreover, takes the opinion of the council of state on all matters of general or particular interest that he thinks proper to submit to it.

The king decides alone, and communicates each of his decisions to the council of state.

74. The king may appoint counsellors of state extraordinary without pay: he calls them to the council when he thinks proper.

75. The king establishes ministerial departments: he appoints the heads of these departments, and dismisses them at will. He may summon one or more of them to assist in the deliberations of the council of state.

76. The oath taken by the heads of the ministerial departments and counsellors of state, ordinary and extraordinary, contains, over and above what the king thinks proper to insert therein, the obligation of being faithful to the fundamental law.

CHAPTER III.—*Of the States-General.*

§ 1. *Of the Composition of the States-General.*

77. The states-general represent the nation.

78. The states-general are composed of two chambers.

79. One of these chambers is composed of one hundred and ten members, appointed by the states of the provinces as follows:

North Brabant, seven; South Brabant, eight; Limburg, four; Guelderland, six; Liege, six; East Flanders, ten; West Flanders, eight; Hainault, eight; Holland, twenty-two; Zealand, three; Namur, two; Antwerp, five; Utrecht, three; Friesland, five; Overijssel, four; Groningen, four; Drenthe, one; Luxemburg, four.

80. The other chamber, which bears the title of the first chamber, is composed of not less than forty, and not more than sixty members; they cannot be less than full forty

years of age, and are appointed for life by the king from among the persons the most distinguished for their services, birth, and fortune.

§ 2. *Of the second Chamber of the States-General.*

81. Those persons are eligible to the second chamber who are settled in the province by which they are appointed, and are full thirty years of age.

The members elected in the same province cannot be related or allied to each other nearer than in the third degree.

Land and naval officers are not eligible except they hold a rank above that of captain.

82. The members of this chamber are elected for three years: the chamber is annually renewed by thirds, in the order laid down in a table which shall be framed for this purpose. The members going out are immediately re-eligible.

83. The members of this chamber vote individually, without instructions, and without reference to the assembly which has appointed them.

84. On entering upon the discharge of their functions, they take, each according to the rites of his religion, the following oath: "I swear (promise) to observe and maintain the fundamental law of the kingdom, and that on no occasion, and on no pretext whatever, will I deviate therefrom, or consent to such deviation; that I will preserve and protect, to the utmost of my power, the independence of the kingdom, public and individual liberty; that I will contribute, as far as in me lies, to the increase of the general prosperity, without swerving from this end for the sake of any particular or provincial interest. So help me, God."

They are admitted to this oath after having taken that which follows:

“ I swear (declare) that to be appointed member of the
“ second chamber of the states-general, I have not given or
“ promised, that I will neither give nor promise, directly
“ or indirectly, under any pretext whatever, any gifts or
“ presents, to any person in office or out of office.

“ I swear (promise) that I will never receive from any
“ one whatever, under any pretext, directly or indirectly,
“ any gifts or presents, to do, or not to do, any thing
“ whatever in the exercise of my functions. So help me,
“ God.”

These oaths are taken to the king, or in the second chamber, to its president acting under the king's authority.

85. The president of the second chamber is appointed by the king from a triple list presented to him by the chamber, and holds his office for one session.

86. The members of this chamber receive an indemnity for their journey ; it is regulated by law, and is in proportion to the distance.

They receive, moreover, for the expenses of sojourn, the sum of 2,500 florins per annum : this indemnity, which is to be paid monthly, shall not be received in the interval between one session and another by such members as shall not have been present at the last session, unless they prove that they were prevented attending by illness.

§ 3. *Of the first Chamber of the States-General.*

87. The members of the first chamber, as a complete indemnity for their journey and sojourn, receive the sum of 3,000 florins per annum.

88. On entering on the discharge of their functions, they take, each according to the rights of his religion, the oaths prescribed for the members of the second chamber.

89. The president of the first chamber is appointed by the king, and holds his office for one session.

§ 4. *Regulations common to the Two Chambers.*

90. No person can be at the same time member of both chambers.

91. The heads of the departments of general administration have a seat in the two chambers. They have a deliberative voice only when they are members of the chamber in which they sit.

92. The members of the states-general cannot be at the same time members of the chamber of accounts, or hold any situation connected with accounts.

93. A member of the provincial states appointed to the states-general, on taking his seat, forfeits his first title.

94. Each chamber verifies the powers of its members, and decides the differences which arise on this subject.

95. Each chamber appoints its secretary (greffier).

96. Each chamber bears the title of noble and mighty lords.

97. The states-general meet at least once a year: the ordinary session commences the third Monday in the month of October. The king may convoke an extraordinary session when he thinks proper.

98. In time of peace, the sessions are held alternately, from year to year, in a town of the northern provinces, and in one of the southern.

99. At the king's demise, the states-general meet without a previous convocation. The members who, on the fifth day after such demise, are assembled in the place where the seat of government is fixed, open the extraordinary session.

100. The session of the states-general is opened by the king or his commissioners, in a sitting of the two chambers united. It is closed in the same manner when the king is of opinion that the interests of the kingdom do not require its continuance. The ordinary session shall be at least twenty days.

101. Neither of the chambers can adopt a resolution unless more than half its members are present.

102. Every resolution is adopted by an absolute majority of suffrages.

103. The members of the states-general give their votes as their names are called over, and aloud.

Elections and propositions of candidates are alone made by secret ballot.

104. In the different cases in which, in virtue of the fundamental law, the two chambers (the second doubled, or composed of its ordinary number) are united, the members sit without distinction of chambers.

The president of the first chamber directs the deliberations.

§ 5. *Of the Legislative Power.*

105. The legislative power is exercised by the king and the states-general conjointly.

106. The king addresses to the second chamber the propositions which he wishes to make to the states-general, either by a message containing the motives for such proposition, or by commissioners.

107. The chamber does not deliberate in a general assembly, on any proposition from the king, until such proposition has been discussed in the different sections into which all the members of the chamber are divided, and which are periodically renewed by lot.

108. The sittings of the second chamber of the states-general are public. The chamber nevertheless resolves itself into a committee when a tenth of the members present require it, or it is considered necessary.

Resolutions may be adopted in the committee on such subjects as are discussed in the same.

109. If the second chamber, having deliberated on the general report made to it of the opinion of its sections,

adopts the project, it transmits it to the first chamber with the following formula :

“ The second chamber of the states-general transmits to
“ the first chamber the annexed proposition from the king ;
“ it is of opinion that there is room for adhering to the
“ same.”

110. If the second chamber is of opinion that it cannot adopt the proposition, it gives notice of this in the following terms :

“ The second chamber testifies to the king its gratitude
“ for the zeal with which he watches over the interests of
“ the kingdom, and respectfully prays him to take his pro-
“ position into further consideration.”

111. The first chamber on receiving a proposition from the king, adopted by the second chamber, transmits it to the sections, and after having deliberated thereon in a general sitting, should it adopt the proposition, gives notice of it to the king in the following terms :

“ The states-general testify to the king their gratitude
“ for the zeal with which he watches over the interests of
“ the kingdom, and adhere to his proposition.”

And to the second chamber in these terms :

“ The first chamber makes known to the second cham-
“ ber that it has adhered to the proposition from the king
“ was transmitted to it.....relative to.....”

112. If the first chamber is of opinion that it cannot adopt the proposition, it expresses its opinion in the manner laid down in Art. 110.

It gives notice thereof to the second chamber in the following terms :

“ The first chamber of the states-general makes known
“ to the second chamber that it has respectfully prayed the
“ king to take his proposition of the relative to,
“ into further consideration.”

113. The states-general have a right to make propositions to the king in the manner following :

114. The right of moving the states-general to deliberate on a proposition to be addressed to the king, belongs exclusively to members of the second chamber: its discussion is subject to the forms prescribed for projects of laws.

115. If the second chamber approve the proposition, it transmits it to the first chamber, with the following formula:

“ The second chamber of the states-general transmits to the first chamber the annexed proposition, and is of opinion that there is room for requiring the king’s sanction to the same.”

116. The first chamber, having deliberated on the proposition in the usual manner, when it approves it, addresses it to the king in the form following:

“ The states-general address to the king the annexed proposition, which they believe advantageous and useful to the state. They pray his majesty to give it the royal sanction.”

It communicates the same to the second chamber in these terms:

“ The first chamber of the states-general makes known to the second chamber that it has adopted its proposition of the relative to and that it has addressed the same to his majesty, praying his royal sanction.”

117. If the first chamber does not approve the proposition, it makes the second chamber acquainted therewith in the following terms: “ The first chamber of the states-general transmits to the second chamber the annexed proposition, to which it is of opinion that it cannot give its assent.”

118. When the king adopts a proposition of the states-general, he signifies his assent thus: “ The king consents.” When he rejects such proposition: “ The king will deliberate.”

119. Projects of laws adopted by the king and the two chambers of the states-general, become laws of the kingdom, and are promulgated by the king.

120. The law regulates the mode of promulgation, and the period after which laws become obligatory.

The formula to be used in the promulgation of laws is as follows:

“ We king of the Netherlands, &c. &c. ; to all those
“ whom these presents shall see, GREETING :

“ Be it known, that having taken into consideration, &c.
“ (here the motives are assigned). For these causes, and
“ having heard our council of state, and in common accord
“ with the states-general, we have decreed and do decree
“ by these presents, (the text of the law.) Given,” &c.

§ 6. *Of the Budget of the State.*

121. The budget of national expenses must have the sanction of the states-general. It is laid before the second chamber, during its ordinary session, by the king.

122. The budget is divided into two parts; a division which shall be carried into effect in the budget for the year 1820, and sooner if circumstances permit it.

123. The first part contains all the ordinary, fixed, and permanent expenses which result from the ordinary course of events, and relate more particularly to a state of peace.

These expenses, after being sanctioned by the states-general, are not dependent, during the ten first years, on any further or annual consent from them.

During this period they shall not become the subject of any fresh discussion, except when the king makes known that a source of expense has ceased or varied.

124. In voting this part of the budget, the means of meeting it are at the same time determined.

These means are also voted for ten years, unless the king should make known to the states that a necessity exists for replacing or modifying any part of the same.

125. One year before the expiration of the term for

which these fixed expenses are voted, the king proposes a new budget for the ten succeeding years.

126. The second part of the budget contains the extraordinary, unforeseen, and precarious expenses which, especially in time of war, must be regulated according to circumstances. These expenses, as well as the means of meeting them, are only voted for a year.

127. The expenses of each department of general administration form a distinct chapter in the budget.

The funds allowed for a department must be exclusively appropriated to the expenses of that department, so that no sum can be transferred from one chapter of general administration to another, without the consent of the states-general.

128. The king annually lays before the states-general a detailed account of the employment of the public taxes.

CHAPTER IV.—*Of the Provincial States.*

§ 1. *Of the Composition of the Provincial States.*

Art. 129. The states of the provinces are composed of members elected by the three following orders: The nobles or equestrian body, the towns, and the country districts.

130. The total number of members of which the provincial states are composed, and the number to be elected by each order, are fixed by the king, with the advice of a commission appointed by him in each province.

131. In each province, the nobles shall be formed or not into equestrian bodies, according as it may be thought expedient.

The right of first convoking the nobles, or equestrian bodies, and of fixing the rules for the first admission of members into the same, is vested in the king: they submit their rules to the king's approbation, and in compiling them,

must not swerve from the principles of the fundamental law.

132. The regencies of the towns shall be organized according to the regulations which the regencies now in being, and special commissions appointed by the king, shall propose.

These regulations shall be addressed to the provincial states, and by them submitted, with their observations, to the king's approbation.

They shall determine the mode of electing the members of the provincial states to be returned by each town.

133. Each town has an electoral college: it is convoked every year, solely for the purpose of filling up the vacant places in the town council.

134. The inhabitants of each town, who are qualified to vote, appoint to the vacant places in the electoral colleges: the appointments are made annually, and by a majority of votes; the tickets in which the said votes are given being sealed and signed, and collected from house to house by direction of the general administration.

The regulations of each town determine the amount of direct taxes necessary to be paid, and the other qualifications requisite for entitling a person to vote.

135. For exercising the right of election, the country is divided into districts.

136. No person can be a member of the states of more than one province at the same time.

137. The king, in every province, and under such denomination as he thinks fit, appoints commissioners; giving them the necessary instructions for securing the execution of the laws, and for watching over the interests of the kingdom and the province.

They preside over the assembly of the states and those of the deputations appointed in conformance to Art. 153.

When appointed, they take an oath to be faithful to the fundamental law.

138. The members of the provincial states before entering on their functions, and each according to the rites of his religion, take the following oath:

“ I swear (promise) to observe the fundamental law of
“ the kingdom without deviating therefrom in any man-
“ ner, or under any pretext whatever ; to conform myself
“ to the regulation of the province, and to do all in my
“ power to increase its prosperity. So help me, God.”

This oath shall be administered to the said members after they have taken that of not having given or promised any thing, and of not receiving any forbidden gifts or presents, conformably to what is prescribed for members of the states-general. (Art. 84.)

139. The provincial states meet at least once a year, and whenever they are convoked by the king.

140. The members of the provincial states give their votes individually, without instructions, and without reference to the assembly which appoints them.

141. The provincial states cannot adopt any resolution unless more than one half of their members are present.

Every resolution is adopted by an absolute majority of votes.

142. The members of the provincial states vote aloud, and when called upon by name: the election and presentation of candidates are alone made by ballot.

§ 2. *Of the Powers of the States.*

143. The states lay the expenses of their administration before the king, who, provided they meet his approbation, includes them in the general budget of national expenses.

144. The states of the provinces, either from their own number or otherwise, appoint the members of the second

chamber of the states-general: they choose them, as far as possible, from the different parts of the province.

145. The states are charged with carrying into effect such laws as relate to the protection of the different forms of religion, and to their external celebration, to public instruction, to the management of charitable institutions, to the encouragement of agriculture, commerce and manufactures, as well as all other laws which the king transmits to them for this purpose.

146. The states are charged with every thing that concerns the administration and internal economy of their province; the ordinances and regulations which they think necessary, or conducive to the general interests of the province, must be sanctioned by the king before they can be carried into effect.

147. They take care that no other restrictions than such as are established by law, are laid on the free importation, exportation, and transit of wares and merchandise.

148. They reconcile the differences which arise between the local authorities: if they cannot accomplish this, they submit the same to the king's decision.

149. The king has a right to suspend or annul the acts of the provincial states which are contrary to the laws or to the general interest.

150. The provincial states propose measures to the king for the maintenance or completion of such works and establishments as they believe useful to their province: they can propose at the same time means for meeting the expense, in the whole or part, at the cost of the province.

When their propositions are approved of, they have the superintendency of the works, and the management of the means, on condition of rendering an account of the same.

151. They have a right to maintain the interests of their province and of those subject to their administration, before the king, and the states-general.

152. The mode of exercising the powers assigned to the states by the fundamental law, and in pursuance of the same, shall be determined by regulations framed by the provincial states, and sanctioned by the king.

153. The states appoint a deputation of their members, which is charged in general, as well during the continuance of their sessions, as when separated, with every thing appertaining to the daily administration, and to the execution of the laws. The province of Holland, on account of its extent and population, may have two deputations.

§ 3. *Of the local Administrations.*

154. The rural administrations of lordships, districts, and villages, shall be organized in such manner as shall be found best adapted to circumstances and local interests, and at the same time be deemed compatible with the rights legally acquired.

The provincial states have a right to make regulations on this subject, in conformity with the fundamental law ; they shall submit such regulations, with their observations on the same, to the approbation of the king.

155. The local administrations have the full and entire direction, as laid down in the regulations, of their particular and domestic interests. The ordinances which they frame on this subject are addressed by copy to the states of the province, and cannot be contrary to the laws and general interest.

The king has at all times the right of requiring such information on the administration of the local authorities, and of making on this head such regulations, as he may conceive necessary.

156. The local administrations are obliged to submit to the provincial states their budget of receipts and expenses, and to conform themselves to what the states prescribe in this respect.

157. When the communal burdens require taxes to be imposed, the local administrations shall scrupulously observe the rules laid down in the laws, ordinances, and regulations relating to matters of finance.

Before these taxes can be collected, they must receive the assent of the provincial states, to which the projects, with an exact statement of the wants of the commune, shall be addressed.

In examining these projects, the states are to take care that the proposed impost does not clog the transit, or levy higher duties on the importation of the produce of the soil or industry of other provinces, towns, or rural communes, than those collected on the produce of the place itself, in which the impost is established.

158. No new communal impost can be established without the king's consent.

159. The states must lay before the king all the communal budgets of which he requires the transmission.

The king gives the necessary instructions for the settlement of the accounts rendered by the local administrations.

160. The local administrations are at liberty to support the interests of those under their administration before the king, and the states of their province.

§ 4. *General Regulations.*

161. Every inhabitant of the kingdom has a right to address written petitions to the competent authorities, provided he does this individually, and not under a collective title, which is only permitted to bodies legally constituted and acknowledged as such, and on such matters only as relate to their official powers.

CHAPTER V.—*Of Justice.*§ 1. *General Regulations.*

Art. 162. Justice, throughout the kingdom, is administered in the king's name.

163. The same civil and penal code, the same laws on commerce, and on the organization of the judicial power, shall be common to the whole kingdom.

164. The peaceable possession and enjoyment of his property are guaranteed to every inhabitant.

No person can be deprived thereof, except when the public good requires it, in such cases and in such manner as shall be established by law, and on condition of a just indemnity.

165. Such disputes as relate to property, or the rights thence derived, to debts, or civil rights, are exclusively within the resort of the tribunals.

166. The judicial power can only be exercised by the tribunals established by the fundamental law, or in pursuance of the same.

167. No person can be withdrawn, against his will, from the judge whom the law assigns him.

168. Except in the case of *flagrans delictum*, no one can be arrested otherwise than in virtue of an ordinance from the judge, which ordinance, with the motives thereof annexed, must be communicated to the person arrested, at the moment of the arrest, or immediately after.

The law determines the form of this ordinance, as well as the period within which every accused person must be examined.

169. If, under extraordinary circumstances, the public authority causes an inhabitant of the kingdom to be arrested, the person by whose order the arrest takes place, shall be obliged to give notice thereof to the judge of the

place within twenty-four hours,] and to deliver up the person arrested to the said judge, within three days at furthest.

The criminal tribunals, each in its jurisdiction, are charged with watching over the execution of this regulation.

170. No person is permitted to enter the abode of an inhabitant against his will, unless in pursuance of an order emanating from a functionary invested with due authority by law, and according to the forms established by the said law.

171. Confiscation of property cannot be inflicted for any crime whatever.

172. Every criminal judgment importing condemnation must express the crime, with all the circumstances which establish it, and contain the articles of the law which declare the penalty.

173. Judgments in civil causes must have the motives on which they are grounded, annexed.

174. Every judgment is pronounced in open court.

§ 2. *Of the High Court and the Tribunals.*

175. One supreme tribunal, bearing the title of the high court, is established for the whole kingdom: its members, as far as possible, shall be chosen from all the provinces.

176. The high court makes the second chamber of the states-general acquainted with the vacancies which occur in it, and the king, from a triple list presented by this chamber, selects the persons to fill them up.

The king appoints the president of the high court from among its members: he also appoints the attorney-general.

177. The members of the states-general, the heads of departments of general administration, the counsellors of state, and the king's commissioners in the provinces, are amenable to the high court for all offences committed during the continuance of their functions.

They cannot be prosecuted for offences committed in the discharge of their functions, until such prosecution has been authorized by the states-general.

178. The law determines the other functionaries who are amenable to the high court for all offences committed during the continuance of their functions.

179. Actions directed against the king, the members of his family, and the state, can be brought before the high court only ; those which relate to property (real actions) excepted, which may be carried before the ordinary judges.

180. The high court watches over the administration of justice throughout the kingdom: it takes care that the courts and tribunals make a just application of the laws, and annuls such of their acts and judgments as are contrary to the same;—the whole in conformity to the powers assigned to the said court by the code of procedure.

181. Appeals from causes which, according to the laws, have been tried in the first instance by the provincial courts, are carried before the high court.

182. There is one court of justice for one or more provinces.

The king appoints to the places which fall vacant in the courts from a triple list presented to him by the provincial states.

The presidents of these courts are also in his appointment, and are chosen from among the members. He likewise appoints the attornies-general.

183. Justice in criminal matters shall be administered exclusively by the provincial courts, and such other criminal tribunals as it shall be found necessary to establish.

184. The administration of justice in civil affairs is confided to the provincial courts and civil tribunals.

185. The organization of the provincial courts of the civil and criminal tribunals, their titles, jurisdiction,

powers, with those of the attornies-general, and other ministerial officers, shall be determined by law.

186. The members of the high court, of the provincial courts, and criminal tribunals, as well as the attornies-general and other ministerial officers attached to the said courts and tribunals, hold their office for life.

The term during which the other judges and ministerial officers are to hold their places, shall be fixed by law.

No judge can be deprived of his office during the legal continuance of his functions, except at his own request, or in pursuance of a judgment.

187. The law determines the mode of trying disputes and contraventions in the matter of imposts.

188. Councils of war and a military high court take cognizance of all offences committed by persons serving in the land or naval forces of the state.

This court is composed of an equal number of jurisconsults, and officers of the army and marine, who are appointed by the king for life: a jurisconsult shall always preside over it.

189. The cognizance of civil actions against military persons belongs to the ordinary tribunals.

CHAPTER VI.—*Of Religion.*

Art. 190. Freedom of opinion in religion is guaranteed to all.

191. Equal protection is granted to all the religious communities existing in the kingdom.

192. All the king's subjects, without any distinction as to their religious tenets, enjoy the same civil and political rights, and are eligible to all dignities and employments whatsoever.

193. The public exercise of no form of religious worship can be obstructed, unless such exercise should endanger the public order and tranquillity.

194. The pay, pensions, and other advantages, of what nature soever they may be, which the different religious sects and their ministers now enjoy, are guaranteed to them.

Provision may be made for such ministers as enjoy no pay, and an addition made to the incomes of such as have an inadequate allowance.

195. The king takes care that the sums of money allowed for the expenses of religion, which are paid from the public treasury, are not converted from the purpose to which such sums are particularly appropriated.

196. The king takes care that no religious sect be molested in the enjoyment of that freedom which the law guarantees to it.

He takes care, moreover, that the different religious sects confine themselves within the bounds of that obedience which they owe to the laws of the state.

CHAPTER VII.—*Of the Finances.*

Art. 197. No impost, in aid of the public treasury, can be established, except in pursuance of a law.

198. No privilege can be granted on the subject of taxation.

199. Every year, for the interest of the creditors of the state, the public debt is taken into consideration.

200. The law regulates the weight and title of coins, and determines their value.

201. A college, under the name of counsellors and masters-general of the mint, directs and superintends every thing which concerns the coinage, conforming itself to the instructions prescribed by law.

The king, from a triple list presented to him by the second chamber of the states-general, appoints to the places which fall vacant in the said college.

202. A chamber of accounts is established for the whole kingdom: it is charged with the examination and liquidation of the annual accounts of the departments of general administration, of those of all persons charged with accounts, and others, conformably to the instructions laid down in the law.

The members of the chamber of accounts, as far as is practicable, are chosen from all the provinces.

The king fills up the places which fall vacant in the said chamber from a triple list presented to him by the second chamber of the states-general.

CHAPTER VIII.—*Of the Defence of the State.*

Art. 203. In conformity with ancient customs, with the spirit of the pacification of Ghent, and with the principles of the union of Utrecht, one of the first duties of the inhabitants of the kingdom is to carry arms in support of the national independence, and in defence of the territory of the state.

204. The king takes care that sufficient land and naval forces, raised by the voluntary enlistment of natives or foreigners, be constantly kept on foot, and held ready to serve, as well in Europe as elsewhere, according to the exigency of circumstances.

205. Foreign troops cannot be taken into the service of the kingdom except with the common consent of the king and states-general. The king communicates to the states-general, as soon as he conveniently can, the conventions which he enters into on this subject.

206. Independently of the permanent army of sea and land, there is kept up a national militia, of which, in times of peace, one fifth is annually disbanded.

207. This militia, to as great an extent as is found practicable, is formed by voluntary enlistment in the manner prescribed by law. In default of a sufficient number of

volunteers, the deficiency is made up by lot. All the unmarried male inhabitants who, on the first day of January in every year, have attained their nineteenth year and have not completed their twenty-third, shall be subject to be drawn. Those who have received their discharge cannot, under any pretext, be again called to any other service than that of the communal guard, of which mention will be made hereafter.

208. In ordinary times, the militia are exercised annually; the period of training continues about a month; but the king, should the interest of the state require it, may keep one fourth of the militia men embodied.

209. In case of war, or under other extraordinary circumstances, the king may call out and keep the entire militia embodied. If the states-general are not in session at the time, he convokes them, communicates to them the state of affairs, and deliberates in concert with them on further measures.

210. In no case can the militia be employed in the colonies.

211. The militia cannot pass the frontiers of the kingdom without the consent of the states-general, unless in a case of imminent danger, or that in changing quarters the shortest route lies over a foreign territory. In these two cases, the king, the earliest moment he can, makes the states-general acquainted with the orders which he has given.

212. All expenses relative to the armies of the state are supported from the public treasury.

The lodging and maintenance of soldiers, the supplies, of what description soever they may be, which are furnished the king's troops or fortresses, cannot be raised at the expense of one or more individuals, of one or more communes: if through unforeseen circumstances such supplies are furnished by individuals or communes, the state charges itself with the same, and an indemnity is paid according to the rate fixed by the regulations.

213. In communes which have a population of 2,500 inhabitants and above, there are, as heretofore, communal guards, who are employed in the maintenance of the public tranquillity. In war, they may be employed in repelling the attacks of the enemy.

In the other communes, there are established communal guards, who, inactive in time of peace, form, in war, with the guards of the other communes, the levy *en masse* for the defence of the country.

214. The regulations which the king may conceive necessary for determining the organization of the militia, the number of militia men, as well as those for the communal guards, and the levy *en masse*, shall form the subject of a law.

CHAPTER IX.—*Of the Direction of Waters, Bridges, and Roads.*

Art. 215. The king has the supreme superintendency over all hydraulic works, bridges and causeways, without distinction, whether the expense be paid by the public treasury, or in any other manner.

216. The king causes the general direction of waters, bridges and causeways, to be exercised in the manner which he thinks the most suitable.

217. Independently of the superintendency which the king may attribute to the general direction over works kept up at the expense of colleges, communes, or individuals, this direction is charged, according to the instructions which the king gives it, with all hydraulic works in sea-ports, roads, rivers, *schorren*, downs, dikes, sluices, and other works, as well as with all bridges and roads, of which the expenses, either in the whole or part, are chargeable on the public treasury.

218. If, among the works mentioned in the preceding article, any are found of which the direction may be confided

to the provincial states, whether on account of their being of less general interest, or for the sake of utility or convenience drawn from the thing itself—this direction, either exclusively, or conjointly with the general direction, shall be committed to them.

219. The king, after hearing the states of the province, and with the advice of the council of state, determines what works shall be placed under the direction of the states, and at the same time the means by which the expenses of keeping them in repair are to be provided for.

220. When any hydraulic works, dikes, or sluices, destined to confine the waters of the sea or rivers, are kept up at the expense of colleges, communes or individuals, and are managed by them, the general direction exercises an immediate superintendency over these works, and takes care that in their construction or repair no injury be done to the general interest. It gives the necessary directions to the said colleges, communes or individuals, respecting the same.

The immediate superintendency over these works may also, for the sake of utility or convenience, be assigned by the king to the provincial states.

221. The provincial states have a superintendency over all the hydraulic works, not comprised in the preceding article, as well as over the canals, navigations, lakes, waters, bridges and roads, which are kept up at the expense of colleges, communes or individuals. They take care that these works are well and duly constructed, and kept in good order.

222. The states exercise a superintendency over all the colleges, called *Hoogheemraadschappen*, *Heemraadschappen*, *Wateringen*, *Waterschappen*, over the direction of dikes or *poldres*, under whatever denomination they may exist in the province: saving what is expressed in Art. 220, on the powers of the general direction with regard to works intended to confine the waters of the sea and rivers.

The regulations of these colleges, when finally approved of, and established as the bases of their institution, may be modified, with the king's approbation, by the provincial states: the colleges also may propose to the states such modifications as the interests of those concerned may appear to require.

The states, in the same manner, lay before the king the mode of appointing or proposing to the vacant places in the said colleges.

223. The states have a superintendency over the management of turf or peat grounds, quarries, coal-pits and other mines and pits, as well as over all irrigations, embankments, and drains. The king, for the sake of the general or prevailing interest of those concerned, may commit the superintendency of the said works to the general direction of waters, bridges, and roads.

224. When any subsidies are hereafter granted from the public treasury in aid of any works comprised in the present chapter, it shall be at the same time determined in what manner the direction or superintendency of such works shall be exercised.

225. The tolls paid at barriers, bridges, and sluices, are appropriated to the maintenance and improvement of the roads, bridges, canals, and navigable rivers. The excess, if any, is reserved to defray expenses of the same nature in the same province, with the single exception of the tolls collected on the high roads and means of communication of the kingdom, but of which the excess may be employed for the same purposes, if so ordered by the king.

CHAPTER X.—*Of Public Instruction and Charitable Institutions.*

Art. 226. The instruction of the public is an object of constant solicitude to the government. The king, every year, causes an account to be rendered to the states-general of the state of the higher, middle, and inferior schools.

227. The press being the most proper means for diffusing knowledge, every one may make use of the same for the communication of his thoughts, without being obliged to obtain previous permission. Nevertheless, every author, printer, editor, or distributor, is responsible for writings which tend to wound the rights of society, or those of an individual.

228. The administrations of benevolence, and the education of the poor, are considered objects no less worthy the cares of government; and an annual account of the same must be in like manner laid before the states-general.

CHAPTER XI.—*Of Alterations and Additions.*

Art. 229. If experience should prove the necessity of any alterations or additions to the fundamental law, such alterations and additions shall be accurately pointed out in a law, which shall at the same time declare such necessity to exist.

230. The law shall be transmitted to the provincial states, who shall add to the ordinary members of the states-general, within a given period, an equal number of extraordinary members, chosen in the same manner as the first.

231. When, in pursuance of Arts. 27, 44, 49, the second chamber of the states-general raised to double its usual number, is convoked, the election of the additional members is made by the provincial states, who are convoked by the functionaries exercising the royal authority.

232. The second chamber of the states-general cannot adopt any resolution on an alteration or addition to the fundamental law, unless two-thirds of its members are present; the resolutions are adopted by a majority of three-fourths. All the forms necessary to be observed in passing a law must be strictly observed.

233. No change in the fundamental law, or in the order of succession, can be made during a regency.

234. The changes or additions adopted shall be annexed to the fundamental law, and solemnly promulgated.

Articles additional.

Art. 1. The king is authorized to take the necessary measures for carrying into effect, in all its parts, regularly, and with such despatch as the state of things shall permit, the fundamental law of which the foregoing is a project. He shall have the first appointment of all the functionaries and of all the colleges, whatever may be the mode of appointment adopted by the fundamental law.

2. All the authorities remain in office, and all the laws continue obligatory, until it be otherwise provided for.

3. The first exit of the members of the second chamber of the states-general shall take place on the third Monday of the month of October, 1817.

END OF THE FIRST VOLUME.

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